



KWAZULU-NATAL PROVINCE
KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SAKWAZULU-NATALI

Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe

(Registered at the post office as a newspaper) • (As 'n nuusblad by die poskantoor geregistreer)
(Irejistiwee njengephephandaba eposihhovisi)

PIETERMARITZBURG

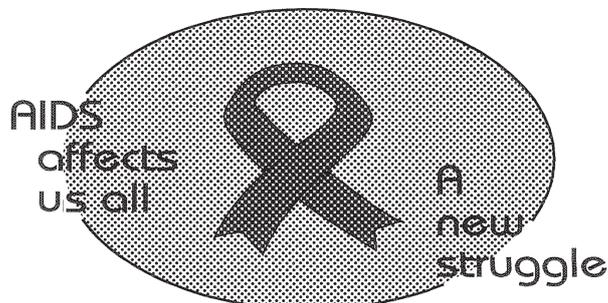
Vol. 10

23 JUNE 2016
23 JUNIE 2016
23 KUNHLANGULANA 2016

No. 1690

PART 1 OF 2

We all have the power to prevent AIDS



**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1994-4558



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Government Printing Works

Notice submission deadlines

Government Printing Works has over the last few months implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submit your notice request.

In line with these business rules, GPW has revised the notice submission deadlines for all gazettes. Please refer to the GPW website www.gpwonline.co.za to familiarise yourself with the new deadlines.

CANCELLATIONS

Don't forget!

Cancellation of notice submissions are accepted by GPW according to the deadlines stated in the table above.

Non-compliance to these deadlines will result in your request being failed. **Please pay special attention to the different deadlines for each gazette.**

Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.

Requests for cancellation must be sent by the original sender of the notice and must accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

take note!

With effect **from 01 October**, GPW will not longer accept amendments to notices. The cancellation process will need to be followed and a new notice submitted thereafter for the next available publication date.

CUSTOMER INQUIRIES



Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While GPW deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a **2-working day turnaround time for processing notices** received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

PROOF OF PAYMENTS

REMINDER

GPW reminds you that all notice submissions **MUST** be submitted with an accompanying proof of payment (PoP) or purchase order (PO). If any PoP's or PO's are received without a notice submission, it will be failed and your notice will not be processed.

When submitting your notice request to submit.egazette@gpw.gov.za, please ensure that a purchase order (GPW Account customer) or proof of payment (non-GPW Account customer) is included with your notice submission. All documentation relating to the notice submission must be in a single email.

A reminder that documents must be attached separately in your email to GPW. (In other words, your email should have an Adobe Form plus proof of payment/purchase order – 2 separate attachments – where notice content is applicable, it should also be a 3rd separate attachment).

REMINDER OF THE GPW BUSINESS RULES

- Single notice, single email – with proof of payment or purchase order.
- All documents must be attached separately in your email to GPW.
- 1 notice = 1 form, i.e. each notice must be on a separate form
- Please submit your notice **ONLY ONCE**.
- Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
- The notice information that you send us on the form is what we publish. Please do not put any instructions in the email body.



eGazette



IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

CONTENTS

	<i>Gazette</i>	<i>Page</i>
	<i>No.</i>	<i>No.</i>
GENERAL NOTICES • ALGEMENE KENNISGEWINGS		
21	Property Rates Act (6/2004): Umuziwabantu Municipality: Promulgation of resolution of levying Rates	1690 9
22	KwaZulu-Natal Gaming & Betting Board: Lot 586, Sunwich Port	1690 10
22	KwaZulu-Natal Dobbelaad: Lot 586, Sunwich Port	1690 12
23	Spatial Planning and Land Use Managerment By-laws: Emadlangeni Municipality	1690 16
PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS		
116	Constitution of the Republic of South Africa Act (108/1996): Bylaws relating to Credit Control and Debt Collection: Kwadukuza Municipality	1690 116
117	Constitution of the Republic of South Africa Act (108/1996): By-laws relating to credit control and debt collection 1690	172
118	Constitution of the Republic of South Africa Act (108/1996): KwaDukuza Municipality: Rates By-Laws	1690 226
MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS		
80	Local Government: Municipal Property Rates Act, 2004: Municipal Tariff by-law 2016/2017	1690 245
81	Municipal Systems Act (32/2000): Umdoni Municipality: Credit Control and Debt Collection Policy	1690 251

NOTICE SUBMISSION DEADLINES FOR ORDINARY GAZETTES

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 12h00 - 3 days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00, to be published the following Friday	Tuesday, 12h00 - 3 days prior to publication
Petrol Price Gazette	As required	First Wednesday of the month	One week before publication	3 days prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00, to be published the following Friday	3 days prior to publication
Unclaimed Monies (justice, labour or lawyers)	January / As required 2 per year	Any	15 January / As required	3 days prior to publication
Parliament (acts, white paper, green paper)	As required	Any		3 days prior to publication
Manuals	As required	Any	None	None
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 12h00 - 3 days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 12h00 - 3 days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 days prior to publication
North West	Weekly	Tuesday	One week before publication	3 days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 days prior to publication
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
Mpumalanga Liquor License Gazette	2 per month	Second & Fourth Friday	One week before	3 days prior to publication

GOVERNMENT PRINTING WORKS CONTACT INFORMATION**Physical Address:**

Government Printing Works
149 Bosman Street
Pretoria

Postal Address:

Private Bag X85
Pretoria
0001

GPW Banking Details:

Bank: ABSA Bosman Street
Account No.: 405 7114 016
Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

E-mail: submit.egazette@gpw.gov.za

For queries and quotations, contact: Gazette Contact Centre:

E-mail: info.egazette@gpw.gov.za

Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za

Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2016

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1000 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	250.00
Ordinary National, Provincial	2/4 - Half Page	500.00
Ordinary National, Provincial	3/4 - Three Quarter Page	750.00
Ordinary National, Provincial	4/4 - Full Page	1000.00

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3000** per page.

GOVERNMENT PRINTING WORKS BUSINESS RULES

Government Printing Works has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic Adobe Forms. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format, to the email submission address submit.egazette@gpw.gov.za. All notice submissions not on Adobe electronic forms will be rejected.
3. When submitting your notice request, please ensure that a purchase order (GPW Account customer) or proof of payment (non-GPW Account customer) is included with your notice submission. All documentation relating to the notice submission must be in a single email and must be attached separately. (In other words, your email should have an Adobe Form plus proof of payment/purchase order as 2 separate attachments. Where notice content is applicable, it should also be a 3rd separate attachment).
4. Notices brought to GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format.
5. All "walk-in" customers with notices that are not on electronic Adobe forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.
6. For National or Provincial gazette notices, the following applies:
 - 6.1 These notices must be accompanied by an electronic Z95 or Z95Prov Adobe form
 - 6.2 The notice content (body copy) MUST be a separate attachment.
7. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
8. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
9. All re-submissions will be subject to the standard cut-off times.
10. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
11. The electronic Adobe form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered.
12. Requests for Quotations (RFQs) should be received by the Contact Centre at least 24 hours before the submission deadline for that specific publication.

APPROVAL OF NOTICES

13. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

The Government Printer indemnified against liability

14. The Government Printer will assume no liability in respect of—
 - 14.1 any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;

- 14.2 erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
- 14.3 any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

15. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

COPY

16. Copy of notices must be submitted using the relevant Adobe PDF form for the type of notice to be placed and may not constitute part of any covering letter or document.
17. Where the copy is part of a separate attachment document for **Z95, Z95Prov** and **TForm03**
- 17.1 Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 17.2 The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

PAYMENT OF COST

18. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
19. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
20. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, Government Printing Works, PrivateBag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
21. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the Government Printing Works banking account.
22. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the Government Printing Works.
23. The Government Printer reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

24. Copies of the Government Gazette which may be required as proof of publication, may be ordered from the Government Printer at the ruling price. The Government Printer will assume no liability for any failure to post such Government Gazette(s) or for any delay in despatching it them

IMPORTANT ANNOUNCEMENT**Closing times for the ORDINARY WEEKLY
KWAZULU-NATAL PROVINCIAL GAZETTE 2016**

The closing time is 15:00 sharp on the following days:

- 26 April 2016, Tuesday for the issue of Thursday 05 May 2016
- 05 May 2016, Thursday for the issue of Thursday 12 May 2016
- 12 May 2016, Thursday for the issue of Thursday 19 May 2016
- 19 May 2016, Thursday for the issue of Thursday 26 May 2016
- 26 May 2016, Thursday for the issue of Thursday 02 June 2016
- 02 June 2016, Thursday for the issue of Thursday 09 June 2016
- 09 June 2016, Thursday for the issue of Thursday 16 June 2016
- 15 June 2016, Wednesday for the issue of Thursday 23 June 2016
- 23 June 2016, Thursday for the issue of Thursday 30 June 2016
- 30 June 2016, Thursday for the issue of Thursday 07 July 2016
- 07 July 2016, Thursday for the issue of Thursday 14 July 2016
- 14 July 2016, Thursday for the issue of Thursday 21 July 2016
- 21 July 2016, Thursday for the issue of Thursday 28 July 2016
- 28 July 2016, Thursday for the issue of Thursday 04 August 2016
- 03 August 2016, Wednesday for the issue of Thursday 11 August 2016
- 11 August 2016, Thursday for the issue of Thursday 18 August 2016
- 18 August 2016, Thursday for the issue of Thursday 25 August 2016
- 25 August 2016, Thursday for the issue of Thursday 01 September 2016
- 01 September 2016, Thursday for the issue of Thursday 08 September 2016
- 08 September 2016, Thursday for the issue of Thursday 15 September 2016
- 15 September 2016, Thursday for the issue of Thursday 22 September 2016
- 22 September 2016, Thursday for the issue of Thursday 29 September 2016
- 29 September 2016, Thursday for the issue of Thursday 06 October 2016
- 06 October 2016, Thursday for the issue of Thursday 13 October 2016
- 13 October 2016, Thursday for the issue of Thursday 20 October 2016
- 20 October 2016, Thursday for the issue of Thursday 27 October 2016
- 27 October 2016, Thursday for the issue of Thursday 03 November 2016
- 03 November 2016, Thursday for the issue of Thursday 10 November 2016
- 10 November 2016, Thursday for the issue of Thursday 17 November 2016
- 17 November 2016, Thursday for the issue of Thursday 24 November 2016
- 24 November 2016, Thursday for the issue of Thursday 01 December 2016
- 01 December 2016, Thursday for the issue of Thursday 08 December 2016
- 08 December 2016, Thursday for the issue of Thursday 15 December 2016
- 14 December 2016, Wednesday for the issue of Thursday 22 December 2016
- 21 December 2016, Wednesday for the issue of Thursday 29 December 2016

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NOTICE 21 OF 2016**UMUZIWABANTU MUNICIPALITY****PROMULGATION OF RESOLUTION LEVYING RATES**

Notice is hereby given that on 25 May 2016 the Council of Umuziwabantu Municipality adopted the Property Rates Act 6 of 2004 and Section 17 (3) (a) (ii) of the Local Government: Municipal Finance Management Act 56 of 2003

1. DETERMINATION OF RATES

In terms of the Rates Policy 2016/2017 adopted by Council on 25 May 2016, the Municipality may levy different Rates for different categories of Property.

That the rate randage for the said financial year for the Umuziwabantu Municipality, be and is hereby assessed and levied for the following categories at:

Residential at 0.0124 cents in the Rand
Agricultural at 0.0031 cents in the Rand
Industrial at 0.0187 cents in the Rand
Business and commercial at 0.0187 cents in the Rand
Public service infrastructure at 0.0031 cents in the Rand
State Owned at 0.0149 cents in the Rand
Communal Land at 0.0124 cents in the Rand
Tourism & Hospitality at 0.0156 cents in the Rand
Tourism & Hospitality – Rural at 0.0065 cents in the Rand
Unauthorised development use at 0.0315 cents in the Rand

Multiple Use Property will be dealt with in accordance with the Rates Policy.

2. Exemptions, Rebates and Reductions:

The following reductions on the market value of the property and rebates on the rates payable, be and are hereby granted in accordance with the Rates Policy.

2.1 Residential Property

That in addition to the statutory reduction of R 15 000, a further reduction of R75 000 be and is hereby approved for property that are improved.

All the above information can be viewed on :-

- i) The Municipal Website
- ii) The Municipal Offices/Library
- iii) Government Gazette

S.D. MBHELE
MUNICIPAL MANAGER

NOTICE 22 OF 2016



KWAZULU-NATAL GAMING & BETTING BOARD – PUBLIC NOTICE

APPLICATION RECEIVED FOR ACQUISITION OF FINANCIAL INTEREST IN THE LICENSED SITE

1. In terms of Section 54 of the KZN Gaming and Betting Act, 2010 (Act No.8 of 2010) read with Regulation 14 of the Regulations published under the KZN Gaming and Betting Act, 2010 (Act No.8 of 2010, notice is hereby given of the application to acquire a financial interest in Type "A" Site Operator Licensee received from the applicant mentioned below:

APPLICANT	PERCENTAGE INTEREST SOUGHT	LICENSEE	ADDRESS	ROUTE OPERATOR
1. Johanna Magrietha Roberson t/a Orca's Beach Bar	100%	Janet Marjorie Alexander t/a Orca's Beach Bar	Lot 586 Sunwich Port, Old Main South Coast Road, Port Shepstone	Luck At It KZN (Pty) Ltd

2. Public inspection of application

The above mentioned application will, subject to any ruling by the Board to the contrary in accordance with the provisions of section 34 of the KwaZulu-Natal Gaming and Betting Act, 2010 (Act No. 08 of 2010), be open to public inspection at the offices of the Board at the address below for the period from **23 June 2016 to 21 July 2016**.

Ground Floor (South Tower)
Room G135
Natalia Building
330 Longmarket Street
PIETERMARITZBURG, 3200

3. Invitation to lodge representations

Interested persons are hereby invited to lodge any representations in respect of the applicant by no later than **16:00 on 21 July 2016**. Representations should be in writing and must contain at least the following information:

- (a) The name of the applicant to whom the representations relate
- (b) The ground(s) on which representations are made.
- (c) The name, address and telephone number of the person submitting the representations.
- (d) An indication as to whether or not the person making the representations wishes to make oral representations when the Board hears the application.

Any representations that do not contain all of the information referred to in paragraph 3 above, will be deemed not to have been lodged with the Board and will not be considered by the Board.

Representations should be addressed to:
The Chief Executive Officer
KwaZulu-Natal Gaming and Betting Board
Private Bag X9102
PIETERMARITZBURG
3200
or faxed to: (033) 3427853

KENNISGEWING 22 VAN 2016**KWAZULU-NATAL DOBBELRAAD****KENNISGEWING VAN AANSOEKE ONTVANG OM****FINANSIELE BELANGSTELLINGS IN 'N LISENSIE TE VERKRY**

1. In terme van Artikel 54 van die KZN Dobbelary en Weddery, 2010 (Wet No.8 van 2010) saamgelees met Regulasie 14 van die onder die KZN Dobbelary en Weddery, regulasies 2010, kennisgewing word hiermee gegee van die aansoeke om 'n finansiële belang in 'n Site Operateur Lisensiehouer te bekom ontvang van die onder gedemde aansoeker

APPLIKAANT	PERSENTASIE BELANG GEVRAAGDE	LISENSIE	ADRES	ROETE OPERATEUR
1. Johanna Magrietha Roberson t/a Orca's Beach Bar	100%	Janet Marjorie Alexander t/a Orca's Beach Bar	Lot 586 Sunwich Port, Old Main South Coast Road, Port Shepstone	Luck At It KZN(Edms) Bpk

2. Openbare inspeksie van aansoek

Die bogenoemde aansoeke sal, onderhewig aan enige beslissing deur die Raad tot die teendeel in ooreenstemming met die bepalings van artikel 34 van die KwaZulu-Natal Wet op Dobbelary en Weddery, 2010 (Wet No. 08 van 2010), oop wees vir openbare inspeksie by die kantore van die Raad by die adres hieronder vir die tydperk vanaf **23 Junie 2016 tot 21 Julie 2015**.

Grondvloer (Suid Toring)
Kamer G135
Natalia Gebou
Langmarkstraat 330
Pietermaritzburg
3201

3. Uitnodiging om vertoë te rig

Belanghebbende persone word hierby uitgenooi om enige versoë ten opsigte van enige of al die aansoekers te rig teen nie later as **16:00** op **21 Julie 2015**. Versoë moet skriftelik geskied en moet minstens die volgende inligting bevat:

- (a) Die name van die aansoeker waarop die versoë betrekking het;
- (b) Die grond(e) waarop die versoë berus;
- (c) Die naam, adres en telefoonnommer van die persoon wat die versoë rig en
- (d) 'n Aanduiding of die persoon wat die versoë rig ook mondelikse versoë wil rig, aldan nie, wanneer die raad die aansoek aanhoor.

Enige versoë wat nie al die besonderhede bevat wat in paragraaf 3 vermeld word nie, sal geag word nie by die raad ingedien te wees nie en sal nie deur die raad oorweeg word nie.

Versoë moet gerig word aan:

Die Hoof- Uitvoerende Beampte
KwaZulu-Natal Dobbelaar en Weddery Raad
Private sak 9102
Pietermaritzburg
3200

Of per faks gestuur word na: (033) 342-7853.



IBHODI ELANGAMELE UKUGEMBULA KWAZULU-NATAL – ISAZISO SOMPHAKATHI

NGESICELO SOKUHLOMULA NGOKWEZIMALI KUMNINI WELAYISENSI

1. NgokweSigaba 54 Somthetho wezokugembula nokuBheja, 2010 (uMthetho No.8 ka 2010) ufundwe kanye nomthethonqubo14 weMithethonqubo eshicilelwe ngaphansi komthetho wokugembula nokuBheja, 2010 (uMthetho No.8 ka 2010), kukhishwa isaziso ngesicelo zokuhlomula ngokwezimali kuhlobo lwe Type “A” lwelayisensi esifakwe ngumfakisicelo obabalulwe ngezansi:

UMFAKISICELO	ISILINGANISO SOMHLOMULO	UMNINI WELAYICENSI	IKHELI	UMUNTU OWENGAMELE IBHIZINISI
1. Johanna Magrietha Roberson t/a Orca's Beach Bar	100%	Janet Marjorie Alexander t/a Orca's Beach Bar	Lot 586 Sunwich Port, Old Main South Coast Road, Port Shepstone	Luck At It KZN (Pty) Ltd

2. Isicelo esibalulwe ngenhla, kuncike kunoma isinqumo yiBhodi ukuba Kunalokho ngokuhambisana nezinhlinzeko zesigaba 34 soMthetho waKwaZulu-Natali, 2010 (uMthetho No. 08 ka 2010), kube nokuvuleka kokuhlolwa kwesicelo ngasinye emphakathini emahhovisi eBhodi ekhelini elingezansi kusukela zingu **23 kuNhlanguani 2016 kuya zingu 21 kuNtulikazi 2016**.

Ground Floor (South Tower)
Room G135
Natalia Building
330 Longmarket Street
PIETERMARITZBURG
3201

3. Isimemo sokwenza izethulo

Abantu abanentshisekelo bayamenywa ukuba benze izethulo lungakadluli mhla zingama **21 kuNtulikazi 2016** ngaphambi **kwehora lesine ntambama**. Izethulo kufanele zibhalwe futhi zibe nale mininingwane elandelayo:

- (a) izethulo eziqondene naye;
- (b) Izizathu izethulo ezenziwa ngaphansi kwazo;

- (c) Igama, ikheli kanye nenombolo yocingo yomuntu oletha izethulo; kanye;
- (d) Nokubalula ukuthi umuntu owenza izethulo ufisa ukwenza izethulo ngomlomo uma iBhodi isilalela isicelo.

Noma iziphi izethulo ezingaluqukethe lonke lolu lwazi olubalulwe endimeni 3 ngenhla zizothathwa ngokuthi azikaze zethulwe kwiBhodi futhi iBhodi angeke izicubungule.

Izethulo kufanele zithunyelwe ku:

The Chief Executive Officer
KwaZulu-Natal Gaming and Betting Board
Private Bag X9102
PIETERMARITZBURG
3200
noma zifekselwe ku: (033) 3427853

NOTICE 23 OF 2016

EMADLANGENI SPATIAL PLANNING
AND LAND USE MANAGEMENT BY-
LAWS

SPLUMA BY-LAWS

30/3/2016

EMADLANGENI MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW

To provide for the establishment of the Municipal Planning Approval Authority, Municipal Planning Appeal Authority and the Municipal Planning Enforcement Authority; to provide for the adoption and amendment of the Municipality's land use scheme, to provide for applications for municipal planning approval; to provide for appeals against decisions of the Municipal Planning Approval Authority; provide for offences and penalties; to provide for compensation and matters incidental thereto.

CHAPTER 1
PRELIMINARY PROVISIONS

1. Definitions
2. Application of By-law
3. Principles, norms and standards and policies

CHAPTER 2
INSTITUTIONAL

Part 1: Function, appointment and constitution of Municipal Planning Approval Authority

4. The Municipal Planning Approval Authority
5. Function of Municipal Planning Authorised Officer
6. Appointment of Municipal Planning Authorised Officer
7. Function of Municipal Planning Tribunal or Joint Municipal Planning Tribunal
8. Establishment of Municipal Planning Tribunal or Joint Municipal Planning Tribunal
9. Appointment and Composition of Municipal Planning Tribunal
10. Drawing persons from private sector to serve on the Municipal Planning Tribunal
11. Disqualifications for Municipal Planning Tribunal membership
12. Chairperson and Deputy Chairperson of Municipal Planning Tribunal
13. Terms and conditions of appointment of Municipal Planning Tribunal members
14. Notification of the appointment of a Municipal Planning Tribunal
15. Resignation and removal from office and filling of vacancies
16. Constitution of Municipal Planning Tribunal for Decision Making
17. Decision of Municipal Planning Tribunal

Part 2: Support for Municipal Planning Tribunal and Municipal Council

18. Function of Municipal Planning Registrar and Deputy Municipal Planning Registrar
19. Appointment of the Municipal Planning Registrar and Deputy Municipal Planning Registrar
20. Function of Expert Technical Advisor
21. Appointment of Expert Technical Advisor

Part 3: Categorisation of applications for municipal planning approval

22. Categorisation of applications for municipal planning approval

Part 4: Function, appointment and constitution of Municipal Planning Appeal Authority

23. The Municipal Planning Appeal Authority
24. Function of Municipal Planning Appeal Authority

25. Presiding Officer for Appeal Authority

Part 5: Support for Municipal Planning Appeal Authority

26. Function of Municipal Planning Appeal Authority Registrar and Deputy Municipal Planning Appeal Authority Registrar

27. Appointment of Municipal Planning Appeal Authority Registrar and Deputy Municipal Planning Appeal Authority Registrar

28. Function of Expert Technical Advisor

29. Appointment of Expert Technical Advisor

Part 6: Function and appointment of the Municipal Planning Enforcement Authority

30. Function of Municipal Planning Enforcement Officer

31. Appointment of Municipal Planning Enforcement Officer

Part 7: Independence, conflict of interest, liability and indemnity

32. Independence of Municipal Planning Approval Authority and Municipal Planning Appeal Authority

33. Declaration of Interest

34. Holding more than one office simultaneously

35. Recusal

36. Conflict of interest of Municipal Planning Enforcement Officer

37. Liability of Municipal Planning Approval Authority, Municipal Planning Appeal Authority and their support staff

38. Legal indemnification

CHAPTER 3
LAND USE SCHEME

39. Purpose of land use scheme

40. Contents of land use scheme

41. Legal effect of land use scheme

42. Existing land use scheme

43. Adoption of land use scheme

44. Inclusion of land that is occupied in an unstructured manner by a traditional community or indigent households in the land use scheme

45. Review of land use scheme

CHAPTER 4
MUNICIPAL PLANNING APPROVAL

46. Activities for which an application for municipal planning approval is required

47. Activities for which an application for municipal planning approval is not required

48. Restrictive conditions of title and servitudes that may be removed, amended or suspended in terms of this By-law

49. Conditions of title and servitudes that may not be removed, amended or suspended in terms of this By-law

50. Relationship between municipal planning approval and the Municipality's Integrated Development Plan

51. Relationship between land use scheme and other municipal planning approvals

52. Relationship between municipal planning approval and other approvals

53. Procedure for municipal planning approval

54. Municipal Planning Approval Authority's decision

55. Record of Decision
56. Persons who must be informed of a Municipal Planning Approval Authority's decision
57. Appeal against Municipal Planning Approval Authority's decision
58. Effective date of Municipal Planning Approval Authority's decision on application
59. Prohibition on making a substantially similar application, if an application was refused
60. Certification of compliance with conditions of approval
61. Transfer of roads, parks and other open spaces
62. Disclosure that land is not registrable before compliance with conditions
63. Vesting of ownership of land after permanent closure of municipal road or public place
64. Lodging of plans and documents with Surveyor-General for the subdivision of land, consolidation of land or the permanent closure of a municipal road or public place
65. Diagram and general plan for the subdivision of land or consolidation of land
66. Registration of ownership for subdivision of land, consolidated of land or opening of township register
67. Lodging of deeds, plans and documents with Registrar of Deeds for permanent closure of municipal road or public place
68. Lodging of deeds, plans and documents with Registrar of Deeds pursuant to an application for the removal, amendment, or suspension of a restrictive condition of title or servitude and certificate of compliance with certain conditions of approval
69. Application for an amendment to a Municipal Planning Approval Authority's Record of Decision to correct an error in the wording of the decision, correct a spelling error, update a property description, or update a reference to a law, person, institution, place name or street name
70. Application for a non-material amendment to a decision on an application or cancellation of municipal planning approval
71. Cancellation or partial cancellation by Municipality of rights that have not been fully exercised
72. Process for the cancellation or partial cancellation of rights by Municipality that have not been fully exercised

CHAPTER 5

MUNICIPAL PLANNING PROPOSAL BY A MUNICIPALITY

73. Municipal Planning proposal by a Municipality
74. Process for municipal planning approval for a proposal by a Municipality

CHAPTER 6

APPEALS

75. Appeal processes
76. Condonation
77. Decision of Municipal Planning Appeal Authority
78. Reasons for decision of Municipal Planning Appeal Authority
79. Notification of outcome of appeal
80. Legal effect of decision of Municipal Planning Appeal Authority
81. Relationship between appeals in terms of this By-law and appeals in terms of section 62 of the Municipal Systems Act
82. Proceedings before Municipal Planning Appeal Authority open to public
83. Costs
84. Offences in connection with proceedings before Municipal Planning Appeal Authority
85. Municipal Planning Appeal Authority Registrar must keep records relating to appeals

CHAPTER 7 ENFORCEMENT

Part 1: Offences, penalties and disconnection of services

- 86. Offences and penalties in relation to municipal planning approval
- 87. Additional penalties
- 88. Reduction or disconnection of engineering services to prevent the continuation of activity that constitutes an offence

Part 2: Prosecution

- 89. Lodging of complaint
- 90. Powers of Municipal Planning Enforcement Officer
- 91. Warrant of entry for enforcement purposes
- 92. Observance of confidentiality pertaining to entry for enforcement purposes
- 93. Presumption that member of the managing body of a corporate body or partner in a partnership committed activity that constitutes an offence
- 94. Failure by land owner's association, body corporate or share block company to execute obligation in terms of condition of approval
- 95. Relief by court
- 96. Relationship between remedies provided for in this By-law and other statutory and common law remedies
- 97. Display of notice on land that activity is unlawful
- 98. Persons who may approach High Court for enforcement of rights granted by Act, a land use scheme adopted in terms of this By-law or municipal planning approval in terms of this By-law

Part 3: Subsequent application for municipal planning approval

- 99. Subsequent application for municipal planning approval

Part 4: Offence and misconduct by official approving the use of land or erection buildings or contrary to the Act, a land use scheme or a restrictive condition of title or servitude registered against land

- 100. Offence and misconduct by official employed by organ of state who approves the erection of buildings or use of land without prior approval in terms of the Act
- 101. Offence by owner for failure to lodge diagrams, plans and documents with the Surveyor-General after cancellation or partial cancellation of municipal planning approval for subdivision or consolidation of land or township establishment
- 102. Offence by owner for failure to lodge deeds, plans and documents with Registrar of Deeds after cancellation or partial cancellation of municipal planning approval for subdivision or consolidation of land or township establishment

CHAPTER 8 COMPENSATION

- 103. Compensation arising from a proposal by a Municipality to zone a privately-owned land for a purpose which makes it impossible to develop any part thereof
- 104. Compensation arising from removal, amendment or suspension of a condition of title
- 105. Compensation arising from permanent closure of municipal road or public place by Municipality
- 106. Amount of compensation

CHAPTER 9
SERVICE OF DOCUMENTS

107. Service of documents
108. Service of documents on Municipal Planning Registrar
109. Service of documents on Municipal Planning Appeal Authority Registrar
110. Date of service of document

CHAPTER 10
DELEGATIONS AND AGENCY AGREEMENTS

111. Agency agreement between municipalities for performance of functions in terms of Act
112. Agency agreement with traditional council
113. Delegations by Municipality

CHAPTER 11
KEEPING OF RECORDS AND ACCESS TO INFORMATION

114. Record of a land use scheme
115. Record of applications for municipal planning approval
116. Notice of approval of sectional title plan, diagram and general plan
117. Notice of allocation of land in terms of the customary law
118. Access to information held by Municipal Planning Registrar
119. Access to information held by Municipal Planning Appeal Authority Registrar
120. Access to information held by Municipal Manager

CHAPTER 12
GENERAL PROVISIONS

121. Declaration of land as land for the settlement in an unstructured manner by a traditional community or indigent households
122. Calculation of number of days
123. Effect of change of ownership of land to which an application for municipal planning approval relates
124. Ceding of rights associated with a person who commented on an application for municipal planning approval to new land owner
125. Application for leave to intervene in application for municipal planning approval or appeal
126. Transitional arrangements and savings
127. Short

SCHEDULE 1
MATTERS THAT MUST BE ADDRESSED IN AN AGREEMENT TO ESTABLISH A JOINT MUNICIPAL PLANNING
TRIBUNAL

1. Matters that must be addressed in an agreement to establish a Joint Municipal Planning Tribunal

SCHEDULE 2
CATEGORISATION OF APPLICATIONS FOR DECISION BY THE MUNICIPAL PLANNING APPROVAL
AUTHORITY

1. Applications for municipal planning approval that may be decided by a Municipal Planning Authorised Officer
2. Applications for municipal planning approval that must be decided by the Chairperson of a Municipal Planning Tribunal or a tribunal member designated by the Chairperson
3. Applications for municipal planning approval that must be decided by the Municipal Planning Tribunal
4. Applications for municipal planning approval that must be decided by the Municipal Council

SCHEDULE 3
ACTIVITIES IN AREAS SITUATED OUTSIDE THE AREA OF A LAND USE SCHEME THAT REQUIRE
MUNICIPAL PLANNING APPROVAL

1. Activities that require municipal planning approval outside the area of a land use scheme
2. Land use definitions

SCHEDULE 4
APPLICATION PROCESSES: ALL APPLICATIONS, EXCEPT AN APPLICATION FOR A DWELLING ON LAND
DEMARCATED FOR THE SETTLEMENT IN AN UNSTRUCTURED MANNER BY A TRADITIONAL COMMUNITY
OR INDIGENT HOUSEHOLDS (SCHEDULE 7)

1. Persons who may make an application
2. Applications that must be prepared by a person with a qualification and experience in land use planning or law
3. Pre-application procedure
4. Failure by an organ of state to comment on an application for municipal planning approval
5. Lodging of application
6. Records of receipt of application, request for additional information and confirmation that application is complete
7. Provision of additional information
8. Confirmation of lodging of complete application, if additional information was required
9. Referral of application affecting the national interest to the Minister of Rural Development and Land Reform
10. Monitoring of application by the responsible Member of the Executive Council
11. Public notice of application
12. Applicant's right to respond
13. Referral of application to Municipal Planning Approval Authority
14. Site inspection
15. Public hearing
16. Registered planner's report on an application
17. Time in which a Municipal Planning Authorised Officer or a Municipal Planning Tribunal must decide an application
18. Municipal Planning Tribunal's recommendation on an application that must be decided by the Municipal Council
19. Referral of application that must be decided by the Municipal Council to the council
20. Time in which a Municipal Council must decide an application

SCHEDULE 5
PUBLIC NOTICE

1. Methods of public notice
2. Contents of public notice
3. Joint public notice for an application for municipal planning approval and an application for environmental authorisation

4. Joint public notice for an application for municipal planning approval and an application for a mining right

SCHEDULE 6

PROCEDURE FOR AMENDING AN APPLICATION OR DECISION FOR MUNICIPAL PLANNING APPROVAL
AND CANCELLATION OF MUNICIPAL PLANNING APPROVAL

1. Application for an amendment to an application for municipal planning prior to notice of decision on the main application
2. Application for an amendment to a Municipal Planning Approval Authority's Record of Decision to correct an error or update a reference.
3. Application for a non-material amendment to a decision on an application or cancellation of municipal planning approval
4. Matters that a Municipal Planning Approval Authority must consider when deciding if an application qualifies as an application for a non-material amendment to a decision

SCHEDULE 7

APPLICATION PROCESS FOR A DWELLING ON LAND DEMARCATED FOR THE SETTLEMENT IN AN
UNSTRUCTURED MANNER BY A TRADITIONAL COMMUNITY OR INDIGENT HOUSEHOLDS

1. Persons who may make an application
2. Lodging of application
3. Confirming availability of the site
4. Granting of municipal planning approval
5. Transfer of municipal planning approval

SCHEDULE 8

MATTERS THAT A MUNICIPAL PLANNING APPROVAL AUTHORITY MUST CONSIDER WHEN IT DECIDES OR
MAKES A RECOMMENDATION ON AN APPLICATION FOR MUNICIPAL PLANNING APPROVAL

1. Matters that a Municipal Planning Approval Authority must consider when it decides or makes a recommendation on an application for municipal planning approval

SCHEDULE 9

INFORMATION THAT MUST BE INCLUDED IN RECORD OF DECISION

1. Information that must be included in a Record of Decision on an application for municipal planning approval

SCHEDULE 10

APPEAL PROCESS

Part 1: Lodging of memorandum of appeal, lodging of responding memorandum, summoning of person to lodge document and collation of documents

1. Lodging of memorandum of appeal
2. Lodging of responding memorandum
3. Parties to an appeal hearing
4. Withdrawal of appeal or opposition to appeal
5. Powers of Municipal Planning Appeal Authority with regard to witness
6. Issuing and service of subpoena to secure attendance of witness
7. Powers of Municipal Planning Appeal Authority with regard to document required to decide appeal
8. Issuing and service of subpoena to obtain document

9. Collation of documents required to decide appeal

Part 2: Setting down of appeal for hearing, site inspection and hearing of appeal

10. Setting down of appeal for hearing
11. Rescinding of an appeal due to undue delay by appellant
12. Postponement of site inspection or hearing
13. Site inspection
14. Hearing
15. Hearing of appeal in absence of parties
16. Circumstances in which hearing may be dispensed with

SCHEDULE 11

APPLICATION FOR LATE LODGING OF MEMORANDUM OF APPEAL

1. Application for late lodging of memorandum of appeal
2. Opposition by an applicant to late lodging of a memorandum of appeal
3. Matters relevant in determining merits of late lodging of a memorandum of appeal
4. Decision on application for late lodging of a memorandum of appeal
5. Notice of decision on application for late lodging of a memorandum of appeal

SCHEDULE 12

URGENT APPLICATION TO THE MUNICIPAL PLANNING APPEAL AUTHORITY TO CONFIRM THAT AN
APPEAL IS INVALID OR FOR THE PARTIAL COMMENCEMENT OF A DECISION APPROVING AN
APPLICATION FOR MUNICIPAL PLANNING APPROVAL

1. Urgent application to the Municipal Planning Appeal Authority to confirm that an appeal is invalid or for the partial commencement of a decision approving an application for municipal planning approval
2. Opposition to an urgent application
3. Matters relevant in determining merits of an urgent application to confirm that an appeal is invalid
4. Matters relevant in determining merits of an urgent application for the partial commencement of a decision approving an application for municipal planning approval
5. Decision on urgent application
6. Notice of decision on urgent application

SCHEDULE 13

TRANSITIONAL MEASURES

Part 1: Town Planning Ordinance

1. Application for special consent approved in terms of the Town Planning Ordinance
2. Pending application for special consent in terms of the Town Planning Ordinance

Part 2: Local Authorities Ordinance

3. Application for permanent closure of a public place approved in terms of the Local Authorities Ordinance.
4. Pending application for permanent closure of a public place in terms of the Local Authorities

Part 3: Less Formal Township Establishment Act

5. Less formal settlement or township approved in terms of the Less Formal Township Establishment Act

Part 3: Development Facilitation Act

6. Development approved in terms of the Development Facilitation Act
7. Functions of designated officer may be performed by Municipality
8. Power reserved by Development Tribunal or Development Appeal Tribunal in a decision on an application in terms of the Development Facilitation Act

Part 4: KwaZulu-Natal Planning and Development Act

9. Application approved in terms of KwaZulu-Natal Planning and Development Act
10. Application in terms of a repealed planning law that must regarded as an application approved in terms of KwaZulu-Natal Planning and Development Act
11. Pending application in terms of KwaZulu-Natal Planning and Development Act
12. Validation of decision made in terms of KwaZulu-Natal Planning and Development Act after 30 June 2015 but before the commencement of this By-law

CHAPTER 1
PRELIMINARY PROVISIONS

Definitions

1. In this By-law, unless the context clearly gives it another meaning –

"adjacent land" means all land that borders a property and all land that would have bordered a property, if they were not separated by a river, road, railway line, power transmission line, pipeline, or a similar feature;

"appellant" means a person who has lodged an appeal in terms of section 57(2);

"approval" in relation to an application for Municipal Planning Approval means approval in terms of section 54(3)(a) of this By-law and includes the conditions of approval;

"Architectural Profession Act" means the Architectural Profession Act, 2000 (Act No. 44 of 2000);

"attorneys or advocates" means a person admitted to practice as an attorney in terms of the Attorneys Act, 1979 (Act No 53 of 1979) or as an advocate in terms of the Advocates Act 1964 (Act No. 74 of 1964);

"building line" means a rear space, side space or street front space;

"Deeds Registries Act" means the Deeds Registries Act, 1937 (Act No. 47 of 1937);

"Deeds Registry" means a deeds registry established in terms of section 1(1)(a) of the Deeds Registries Act, 1937 (Act No 47 of 1937);

"Development Facilitation Act" means the Development Facilitation Act, 1995 (Act No. 67 of 1995);

"District Municipality" means the Amajuba District Municipality;

"engineering services" means infrastructure for –

- (a) roads;
- (b) stormwater drainage;
- (c) water;
- (d) electricity;

- (e) telecommunication;
- (f) sewerage disposal;
- (g) waste water disposal; and
- (h) solid waste disposal;

"Executive Authority" means the executive committee or executive mayor of the Municipality or, if the Municipality does not have an executive committee or executive mayor, a committee of councillors appointed by the Municipal Council;

"Gazette" means the KwaZulu-Natal Provincial Gazette;

"Geomatics Professions Act" Geomatics Professions Act, 2013, (Act No. 19 of 2013)

"indemnify" means an undertaking to pay any damages, claim or taxed costs awarded by a court or agreed to by the municipality in terms of a formal settlement process;

"Integrated Development Plan" means the Integrated Development Plan adopted by the Municipality in terms of section 25(1) of the Municipal Systems Act;

"land" means –

- (a) any piece of land depicted on a diagram approved by the Surveyor General and registered in the Deeds Registry, including an erf, a sectional title unit, a lot, a plot, a stand, a farm and a portion or piece of land, and
- (b) unsurveyed state land;

"land owner's association" means an organisation established by owners of a group of properties to collectively regulate their conduct and share the costs of maintaining and improving shared infrastructure and services, including a home owner's association;

"Local Authorities Ordinance" means the Local Authorities Ordinance, 1974 (Ordinance No. 25 of 1974);

"lodge" has the same meaning as "serve", except in relation to the lodging of plans and documents with the Surveyor-General or the lodging of deeds, plans and documents with the Registrar of Deeds;

"Municipality" means the Emadlangeni Local Municipality;

"municipal area" means the area of jurisdiction of the Municipality determined from time to time by the Municipal Demarcation Board established by section 2 of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998);

"Municipal Council" means the Municipal Council of the Municipality established in terms of section 18 of the Municipal Structures Act;

"Municipal Planning Appeal Authority" means the Municipal Planning Appeal Authority contemplated in section 23;

"Municipal Planning Approval Authority" means the Municipal Planning Approval Authority contemplated in section 4;

"Municipal Property Rates Act" means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

"Municipal Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998);

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000, (Act No 32 of 2000);

"notify" has a corresponding meaning as "serve";

"organ of state" means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996;

"owner" means –

- (a) the person in whose name land is registered in the deeds registry for KwaZulu-Natal;
- (b) the beneficial holder of a real right in land;
- (c) the person in whom land vests;

"pending application" means an application that has been made but for which the approval authority did not issue a record of decision or similar document before the commencement of this By-law;

"person" means a natural or juristic person and includes an organ of state;

"Planning and Development Act" means the KwaZulu-Natal Planning and Development Act, 2008, (Act No. 6 of 2008);

"Presiding Officer" means –

- (a) a member of a Municipal Planning Tribunal designated to preside over the determination of an application for municipal planning approval contemplated in section 16(5); or
- (b) the Presiding Officer of the Municipal Planning Appeal Authority contemplated in section 25;

"Promotion of Access to Information Act" means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)

"public service infrastructure" means public service infrastructure as defined in section 1 of the Municipal Property Rates Act;

"rear space" means a space, along the inside of a boundary of a property that does not meet a street boundary, in which no buildings may be erected, the extent of which is determined by a parallel line which is a set distance from the boundary;

"Record of Decision" means a Record of Decision of an application for municipal planning approval as contemplated in section 55;

"Registered Planner" means a professional or technical planner registered in terms of the Planning Profession Act, 2002 (Act No 36 of 2002), unless the South African Municipal Council for Planners has reserved the work to be performed by a Registered Planner in terms of section 16(2) of that Act in which case a 'Registered Planner' means the category of registered persons for whom the work has been reserved;

"Sectional Titles Act" means the Sectional Titles Act, 1986 (Act No. 95 of 1986);

"serve" in relation to a notice, order or other document means to serve the document concerned in the manner set out in section 107;

"shared services agreement" means an agreement entered into between two or more municipalities, including the District Municipality, whereby the participating municipalities agree to share services described in the agreement;

"side space" means a space, along the inside of a boundary of a property that meets a street boundary, in which no buildings may be erected, the extent of which is determined by a parallel line which is a set distance from the boundary;

"street front space" means a space along the inside of a boundary of a property, that is contiguous with a street, public right of way or road reservation, in which no buildings may be erected, the extent of which is determined by a parallel line which is a set distance from the boundary;

"Spatial Planning and Land Use Management Act" means the Spatial Planning and Land Use Management Act 2013 (Act No. 16 of 2013);

"Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters" means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 (Government Notice No. 239 of 2015);

"Spatial Development Framework" means the Spatial Development Framework adopted by the Municipality in terms of section 25(1) of the Municipal Systems Act and section 20(1) of the Spatial Planning and Land Use Management Act;

"subdivision" means the division of land in accordance with a layout plan into a combined total of less than fifty properties, including a remainder, but excluding land to be used for road purposes;

"Subdivision of Agricultural Land Act" means Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970);

"Surveyor-General" means the Surveyor-General as defined in the Land Survey Act, 1997 (Act No. 8 of 1997);

"Town Planning Ordinance" means the KwaZulu-Natal Town Planning Ordinance, 1949 (Ordinance No. 27 of 1949);

"township" means the division of land in accordance with a layout plan into a combined total of fifty or more properties, including a remainder, but excluding land to be used for road purposes.

Application of By-law

2.(1) This By-law is subject to section 2(2) of the Spatial Planning and Land Use Management Act that provides that, except as provided in the Spatial Planning and Land Use Management Act, no legislation may prescribe an alternative or parallel mechanism, measure, institution or system on spatial planning, land use, land use management and land development in a manner inconsistent with it.

(2) In terms of regulation 14 the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters –

(a) the manner and format in which an application for Municipal Planning Approval must be submitted shall be the manner and format prescribed in this By-law;

(b) the timeframes applicable to steps in the application process shall be the time frames prescribed in this By-law;

- (c) the manner and extent of the public participation process for each type of application for Municipal Planning Approval shall be the manner and extent of public consultation prescribed in this By-law;;
- (d) the manner and extent of the intergovernmental participation process for each type of application for Municipal Planning Approval shall be the manner and extent of public consultation prescribed in this By-law;;
- (e) procedures for site inspections shall be the procedures prescribed in this By-law;;
- (f) procedures for an amendment to an application for Municipal Planning Approval shall be the procedures prescribed in this By-law;
- (g) the place where an application for Municipal Planning Approval must be submitted shall be the place prescribed in this By-law; and
- (h) the procedure that provides for an application for Municipal Planning Approval that is, on face value, when submitted to a municipality, incomplete and an application for Municipal Planning Approval that, after substantive scrutiny by a municipality, requires additional information from the applicant shall be the procedure prescribed in this By-law.

(3) This By-law applies to all land within the jurisdiction of the Municipality, including land owned by an organ of state and the Municipality.

(4) This By-law binds every owner and their successors-in-title and every user of land, including the state, any organ of state or the Municipality.

Principles, norms and standards and policies

3.(1) Any development principles and any norms and standards applicable to spatial planning, land development and land use management made in terms of national or provincial legislation apply to the Municipality.

(2) The Municipal Council may adopt policies not inconsistent with national legislation, provincial legislation or this By-law to guide applications or decision making in terms of this By-law.

(3) If the Municipal Council intends to adopt or amend a policy that may materially and adversely affect the rights of any individual or the public, the Municipality must follow a participation process and procedure which meets the requirements of the Municipal Systems Act.

CHAPTER 2 INSTITUTIONAL

Part 1: Function, appointment and constitution of Municipal Planning Approval Authority

The Municipal Planning Approval Authority

4. The Municipal Planning Approval Authority comprises –
- (a) the Municipal Planning Authorised Officer
 - (b) the Municipal Planning Tribunal; and
 - (c) the Municipal Council.

Function of Municipal Planning Authorised Officer

5.(1) A Municipal Planning Authorised Officer must decide applications for municipal planning approval in terms of section 22(1)(a).

Appointment of Municipal Planning Authorised Officer

- 6.(1) The Municipal Manager must in writing –
- (a) appoint a Municipal Planning Authorised Officer; or

(b) determine that the incumbent of a particular post on the Municipality's post establishment shall be a Municipal Planning Authorised Officer.

(2) A Municipal Planning Authorised Officer –

(a) must be a municipal official or a municipal official employed in a full time capacity by another Municipality under a shared services agreement; and

(b) must be a Registered Planner.

(3) The Municipality may have as many Municipal Planning Authorised Officers as it requires.

Function of Municipal Planning Tribunal or Joint Municipal Planning Tribunal

7. A Municipal Planning Tribunal or a Joint Municipal Planning Tribunal must decide applications for municipal planning approval in terms of section 22(1)(b) or (c).

Establishment of Municipal Planning Tribunal or Joint Municipal Planning Tribunal

8.(1) The Municipal Council must establish –

(a) a Municipal Planning Tribunal; or

(b) a Joint Municipal Planning Tribunal.

(2) The Municipal Council may consider the following factors when deciding to establish a Municipal Planning Tribunal or to participate in the establishment of a Joint Municipal Planning Tribunal –

(a) the impact of this By-law on its financial, administrative and professional capacity;

(b) its ability to effectively implement the provisions of Chapter 4;

(c) the average number of applications for municipal planning approval that it deals with annually; and

(d) the development pressures in the Municipality.

(3) If the Municipality does not have capacity to implement the provisions of Chapter 4 of this By-law, it is an indication that it should be establishing a Joint Municipal Planning Tribunal.

(4) If the Municipal Council decided to establishment a Joint Municipal Planning Tribunal, it must enter into a written agreement with the other participating municipalities, including the District Municipality, in accordance with Chapter 3 of the Inter-governmental Relations Framework Act, 2005 (Act No 13 of 2005).

(5) An agreement to establish a Joint Municipal Planning Tribunal must at least address the matters set out in Schedule 1.

(6) An agreement to establish a Joint Municipal Planning Tribunal may provide for joint invitations in terms of sections 10(1) or joint notifications in terms of section 14.

(7) The provisions of sections 9 to 17 with the necessary changes apply to a Joint Municipal Planning Tribunal.

Appointment and composition of Municipal Planning Tribunal

9.(1) The Municipal Planning Tribunal consists of five or more members, who, by reason of their integrity, qualifications, expertise and experience are suitable for membership.

(2) The Municipal Planning Tribunal must comprise of persons from the following categories –

(a) officials in the full-time service of the Municipality; and

(b) persons who are not municipal officials.

(3) A member of the Municipal Planning Tribunal members who is not a municipal official may be –

(a) an official or employee of any national or provincial organ of state;

- (b) an official or employee of organised local government in KwaZulu-Natal; or
 - (c) a person drawn from the private sector.
- (4) A member of the Municipal Planning Tribunal who is drawn from the private sector must, subject to section 10(2), be –
- (a) a Registered Planner;
 - (b) an attorney or advocate;
 - (c) persons registered in a category in terms of section 20(3) of the Natural Scientific Professions Act, 2003 (Act No 27 of 2003) within the field of environmental science;
 - (d) a person registered in a category in terms of section 18(1)(a) of the Engineering Profession Act, 2000, (Act No 46 of 2000);
 - (e) a person registered in a category in terms of section 18(1)(a) of the Architectural Profession; and
 - (f) a person registered in terms of section 13(1)(d) of the Geomatics Professions Act as a as a Land Surveyor.
- (5) A person is not disqualified from serving on a Municipal Planning Tribunal by virtue of the fact that he or she –
- (a) does not reside or is not employed in the area of the Municipality concerned; or
 - (b) serves on another Municipal Planning Tribunal.
- (6) If the Municipality is of the opinion that it necessary to appoint additional or new members or a new Chairperson or a new Deputy-Chairperson, it may make additional or new appointments.
- (7) The procedure for the appointment of Municipal Planning Tribunal members must be followed for the appointment of new or additional members or a new Chairperson or a new Deputy-Chairperson.
- (8) New or additional members will serve for the unexpired period of office of the Municipal Planning Tribunal to which he or she is appointed.

Drawing persons from private sector to serve on the Municipal Planning Tribunal

- 10.(1)** If the Municipality intends to appoint persons drawn from the private sector to serve on the Municipal Planning Tribunal, the Municipal Manager must –
- (a) request the professions' controlling bodies to call on interested persons who qualify to apply for appointment.
 - (b) by notice in a newspaper circulating in its area call on interested persons who qualify to apply for appointment.
- (2) If there is no or insufficient response to the notices calling on interested persons who qualify to apply for appointment, the Municipality may by notice in a newspaper circulating in its area call on interested persons who do not meet the requirements of section 9(4), but who has extensive knowledge of land use planning and development to apply for appointment.
- (3) The Municipality must establish an evaluation panel consisting of officials in the service of the Municipality to evaluate nominations received in response to the call for nominations.
- (4) The Municipality must consider the evaluation panel's recommendations when it appoints members drawn from the private sector who to serve on the Municipal Planning Tribunal.
- (5) The Municipality may only appoint members drawn from the private sector who have responded to the invitation to serve on the Municipal Planning Tribunal.

Disqualifications for Municipal Planning Tribunal membership

11. A person is disqualified from appointment as a member if he or she –
- (a) is a member of the Municipal Planning Appeal Authority;
 - (b) is an un-rehabilitated insolvent;
 - (c) is declared incapable of managing his or her own affairs by a court of law or under curatorship;
 - (d) is a member of Parliament, the provincial legislature, a Municipal Council or a House of Traditional Leaders, or if that person is nominated as a member of Parliament, the provincial legislature, a Municipal Council or a House of Traditional Leaders;
 - (e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
 - (f) fails to disclose an interest in terms of section 33(1),
 - (g) attended or participated in the proceedings of the Tribunal while having such interest; or
 - (h) is convicted by a court of law of –
 - (i) perjury, theft, fraud, bribery or corruption or any other offence involving dishonesty;
 - (ii) any offence under this By-law; or
 - (iii) any other offence for which he or she was sentenced to imprisonment without the option of a fine for a period longer than six months.

Chairperson and Deputy Chairperson of Municipal Planning Tribunal

12.(1) The Municipality must designate a Chairperson and a Deputy Chairperson for a Municipal Planning Tribunal from the members who are Registered Planners, attorneys or advocates.

(2) A Deputy Chairperson of a Municipal Planning Tribunal must act in the place of the Chairperson of a Municipal Planning Tribunal whenever –

- (a) the office of the Chairperson is vacant; or
- (b) the Chairperson is absent or for any other reason temporarily unable to exercise his or her powers.

(3) If the office of a Deputy Chairperson of a Municipal Planning Tribunal is vacant, or if a Deputy Chairperson is unable to act as Chairperson, the Municipality must designate one of the remaining members who are Registered Planners, attorneys or advocates.

Terms and conditions of appointment of Municipal Planning Tribunal members

13.(1) A member holds office for a period of five years, or such shorter period as the Municipal Council may determine in the member's letter of appointment.

(2) A member holds office on the terms and conditions determined by the Municipality in accordance with any national norms and standards determined by the Minister of Rural Development and Land Reform in terms of section 37(2) of the Spatial Planning and Land Use Management Act.

(3) A member who is drawn from the private sector must –

- (a) be remunerated and reimbursed from funds appropriated for that purpose by the Municipality;
- (b) be remunerated at a daily rate, as determined by the Municipality; and
- (c) be reimbursed for travelling and subsistence expenses reasonably incurred.

Notification of the appointment of a Municipal Planning Tribunal

14. Notice of the appointment of members to a Municipal Planning Tribunal must be published in the Gazette and in newspapers circulating in its area of jurisdiction announcing –

- (a) that it has established a Municipal Planning Tribunal;
- (b) the names of the persons that it has appointed to a Municipal Planning Tribunal, including the Chairperson and Deputy Chairperson;

- (c) the date from which applications for municipal planning approval can be lodged for consideration by the Municipal Planning Tribunal; and
- (d) where and with whom applications for municipal planning approval can be lodged.
- (e) if the Municipality has established a Joint Municipal Planning Tribunal, also –
 - (i) the names of the participating municipalities;
 - (ii) where a copy of the written agreement between the participating municipalities may be obtained.

Resignation and removal from office and filling of vacancies

15.(1) A member may resign from the Municipal Planning Tribunal in writing by giving not less than 30 days' written notice to the Municipal Manager.

- (2) The Municipality may remove a member from the Municipal Planning Tribunal –
 - (a) if that person is unable to exercise or perform the powers associated with the office of a Municipal Planning Tribunal member due to physical disability or mental illness;
 - (b) for failing to exercise or perform the powers attached to the office of a Municipal Planning Tribunal member diligently and efficiently; or
 - (c) for misconduct.
- (3) Any member of the Municipal Planning Tribunal who, subsequent to his or her appointment, becomes disqualified in terms of section 11 ceases immediately upon such disqualification being established to be a member of the Municipal Planning Tribunal.
- (4) A member must vacate office if he or she is absent without a leave of absence having first been granted by the Chairperson of the Municipal Planning Tribunal from two consecutive meetings of the Tribunal for which reasonable notice was given to that member.

Constitution of Municipal Planning Tribunal for Decision Making

16.(1) The Chairperson of a Municipal Planning Tribunal, in consultation with the Municipal Planning Registrar, must refer an application for municipal planning approval to at least three members of the Municipal Planning Tribunal designated by the Chairperson for the purposes of –

- (a) deciding an application; or
 - (b) making a recommendation on a an application to the Municipality.
- (2) At least one of the members to whom an application for municipal planning approval has been referred to must be a Registered Planner.
 - (3) At least one of the members to whom an application for municipal planning approval has been referred to must be an official in the full-time service of the Municipality.
 - (4) At least one of the members to whom an application for municipal planning approval has been referred to must be a person who is not a municipal official.
 - (5) The Chairperson of the Municipal Planning Tribunal must designate one of the members to whom an application for municipal planning approval has been referred to, to be the Presiding Officer.
 - (6) A member designated includes the Chairperson himself or herself for the purposes of designating members or designating a Presiding Officer.

Decision of Municipal Planning Tribunal

17.(1) A recommendation or decision on an application for municipal planning approval is decided by a majority of the members designated by the Chairperson of a Municipal Planning Tribunal in terms of section 16(1) to make a recommendation or decision on the application.

(2) The Presiding Officer has a casting vote in the event of an equality of votes.

(3) The Presiding Officer must sign the decision of the Municipal Planning Tribunal.

Part 2: Support for Municipal Planning Tribunal and Municipal Council

Function of Municipal Planning Registrar and Deputy Municipal Planning Registrar

18.(1) The Municipal Planning Registrar must provide administrative support to the Municipality's municipal planning approval authorities.

(2) A Deputy Municipal Planning Registrar must –

(a) assist the Municipal Planning Registrar; and

(b) act as the Municipal Planning Registrar, whenever –

(i) the office of Municipal Planning Registrar is vacant; or

(ii) the Municipal Planning Registrar is absent or for any other reason temporarily unable to exercise his or her powers.

Appointment of the Municipal Planning Registrar and Deputy Municipal Planning Registrar

19.(1) The Municipal Manager must –

(a) appoint a Municipal Planning Registrar; or

(b) determine that the incumbent of a particular post on the Municipality's establishment shall be a Municipal Planning Registrar.

(2) The Municipal Manager may –

(a) appoint a Deputy Municipal Planning Registrar; or

(b) determine that the incumbent of a particular post on the Municipality's establishment shall be a Deputy Municipal Planning Registrar.

(3) The Municipal Planning Registrar and a Deputy Municipal Planning Registrar must be municipal employees.

(4) The Municipality may have as many municipal planning registrars and deputy municipal planning registrars as it requires.

Function of Expert Technical Advisor

20. An Expert Technical Advisor must advise and assist a Municipal Planning Tribunal or Municipal Council to make a decision on an application for municipal planning approval.

Appointment of Expert Technical Advisor

21.(1) A Municipal Planning Tribunal or Municipal Council may co-opt the services of an Expert Technical Advisor.

(2) An Expert Technical Advisor may be appointed on an ad hoc basis or for such period as the Municipality may decide and upon such terms and conditions as may be agreed with the Expert Technical Advisor.

(3) An Expert Technical Advisor is not a member of the Municipal Planning Tribunal or Municipal Council and has no voting rights.

(4) The Municipality may remunerate an Expert Technical Advisor who is not a national, provincial or municipal official.

Part 3: Categorisation of applications for municipal planning approval

Categorisation of applications for municipal planning approval

22.(1) Applications for municipal planning approval must be decided by –

- (a) a Municipal Planning Authorised Officer;
- (b) the Chairperson of the Municipal Planning Tribunal or a member of the Tribunal authorised by the Chairperson to do so;
- (c) the Municipal Planning Tribunal; or
- (d) the Municipal Council,

in accordance with Schedule 2.

(2) If a development requires both an application for municipal planning approval that must be decided by a Municipal Planning Authorised Officer and an application for municipal planning approval that must be decided by the Municipal Planning Tribunal, the Municipal Planning Tribunal must decide both applications.

(3) If a development requires both an application for municipal planning approval that may be decided by a Municipal Planning Authorised Officer and an application for municipal planning approval that must be decided by the Municipal Council, the Municipal Planning Tribunal must decide the application that could have been decided by the Municipal Planning Authorised Officer.

(4) If a development requires both an application for municipal planning approval that must be decided by a Municipal Planning Tribunal and an application for municipal planning approval that must be decided by the Municipal Council, then each must decide the application submitted to it separately, subject to section 55(2).

(5) A Municipal Planning Authorised Officer may, at any time, refer an application for municipal planning approval to a Municipal Planning Tribunal, if the Municipal Planning Authorised Officer is of the opinion that it warrants a decision by a Municipal Planning Tribunal –

- (a) due to the complexity of the application, or
- (b) due to the divisive nature of opinion on the application.

(6) The time frames in which an action must be completed are not affected by the referral of an application for municipal planning approval by a Municipal Planning Authorised Officer to the Municipal Planning Tribunal.

(7) An application for municipal planning approval that must be decided by a Municipal Council may not be decided by any other person or body.

(8) An application for –

- (a) a material change to the Municipality's decision on an application for municipal planning approval; or
- (b) the cancellation of the Municipality's decision on an application for municipal planning approval, except a decision to adopt or amend land use scheme,

must be decided by the Municipal Planning Approval Authority that made the original decision for municipal planning approval.

Part 4: Function, appointment and constitution of Municipal Planning Appeal Authority

The Municipal Planning Appeal Authority

23. The Municipal Planning Appeal Authority of the Municipality is the Executive Authority of the Municipality, unless the Municipal Council has delegated the power to decide appeals to –

- (i) a Municipal Councillor;
- (ii) a committee of municipal officials; or
- (iii) a municipal official.

Function of Municipal Planning Appeal Authority

24. The Municipal Planning Appeal Authority must decide appeals against decisions on applications for municipal planning approval that have been decided by a Municipal Planning Authorised Officer or a Municipal Planning Tribunal.

Presiding Officer for Municipal Planning Appeal Authority

25. The Presiding Officer of the Municipal Planning Appeal Authority is –

- (a) the Executive Mayor of the Municipality;
- (b) the Chairperson of the Executive Committee of the Municipality;
- (c) the Chairperson of the Committee of Councillors, if a Municipality does not have an Executive Committee or Executive Mayor;
- (d) the Municipal Councillor, Chairperson of the committee of municipal officials, or municipal official to whom the Municipal Council has delegated the power to decide appeals; or
- (e) the Chairperson or a Presiding Officer appointed by the Chairperson of a body or institution outside of the Municipality that it has authorised to assume the obligations of an appeal authority.

Part 5: Support for Municipal Planning Appeal Authority

Function of Municipal Planning Appeal Authority Registrar and Deputy Municipal Planning Appeal Authority Registrar

26.(1) The Municipal Planning Appeal Authority Registrar and Deputy Municipal Planning Appeal Authority Registrar must provide administrative support to the Municipal Planning Appeal Authority, including –

- (a) making arrangements for site inspections to be conducted by the Municipal Planning Appeal Authority;
- (b) making arrangements suitable venues for all appeal hearings; and
- (c) the recording and transcription of proceedings of the Municipal Planning Appeal Authority.

(2) The provisions of section 18(2) apply to the functions of a Deputy Municipal Planning Appeal Authority Registrar, except that –

- (a) a reference to the Municipal Planning Registrar must be regarded as a reference to the Municipal Planning Appeal Authority Registrar; and
- (b) a reference to a Deputy Municipal Planning Registrar must be regarded as a reference to a Deputy Municipal Planning Appeal Authority Registrar.

Appointment of Municipal Planning Appeal Authority Registrar and Deputy Municipal Planning Appeal Authority Registrar

27.(1) The provisions of section 19 apply to the appointment of a Municipal Planning Appeal Authority Registrar or Deputy Municipal Planning Appeal Authority Registrar, except that –

- (a) a reference to the Municipal Planning Registrar must be regarded as a reference to the Municipal Planning Appeal Authority Registrar; and
- (b) a reference to a Deputy Municipal Planning Registrar must be regarded as a reference to a Deputy Municipal Planning Appeal Authority Registrar.

(2) If the Municipal Manager has not appointed a Registrar or Deputy Registrar as contemplated in this section, he or she must perform the functions of a Municipal Planning Appeal Authority Registrar.

(3) It is not necessary for the Municipal Manager to appoint a Municipal Planning Appeal Authority Registrar, if the Municipal Council has authorised a provincial body in terms of provincial legislation to perform this function.

Function of Expert Technical Advisor

28. An Expert Technical Advisor must advise and assist the Municipal Planning Appeal Authority to make a decision on an appeal against a decision by a Municipal Planning Authorised Officer or the Municipal Planning Tribunal on an application for municipal planning approval.

Appointment of Expert Technical Advisor

29. The provisions of section 21 apply to the appointment of an Expert Technical Advisor to assist the Municipal Planning Appeal Authority, except that a reference to the Municipal Planning Tribunal or Municipal Council must be regarded as a reference to the Municipal Planning Appeal Authority.

Part 6: Function and appointment of the Municipal Planning Enforcement Authority

Function of Municipal Planning Enforcement Officer

30. A Municipal Planning Enforcement Officer must assist a Municipality with the enforcement of this By-law, the land use management scheme and the decisions of the Municipal Planning Approval Authority and Municipal Planning Appeal Authority.

Appointment of Municipal Planning Enforcement Officer

31.(1) The Municipal Manager or Municipal Manager of the District Municipality must appoint a Municipal Planning Enforcement Officer.

(2) A Municipal Planning Enforcement Officer must be a peace officer contemplated in section 334(1)(a) of the Criminal Procedure Act, 1977 (Act 51 of 1977).

(3) The Municipal Manager or Municipal Manager of the District Municipality may appoint as many municipal planning enforcement officers as the Municipality requires.

(4) The Municipal Manager or Municipal Manager of the District Municipality must issue a Municipal Planning Enforcement Officer with an identity card containing –

- (a) a photograph of that person;
- (b) the person's full names;
- (c) the person's identity number;
- (d) the person's designation;
- (e) the person's professional registration number (if applicable);
- (f) the date that the identity card was issued;
- (g) the period of validity of authorisation;
- (h) the signature of the person; and
- (i) the Municipality's contact number.

(5) A Municipal Planning Enforcement Officer must on request produce his or her written identity card.

Part 7: Independence, conflict of interest, liability and indemnity

Independence of Municipal Planning Approval Authority and Municipal Planning Appeal Authority

32.(1) The Municipal Planning Approval Authority and Municipal Planning Appeal Authority must exercise their powers in an independent manner, free from governmental or any other outside interference or influence, and in accordance with the highest standards of integrity, impartiality, objectivity and professional ethics.

(2) No person, Municipality or organ of state may interfere with the functioning of the Municipal Planning Approval Authority and Municipal Planning Appeal Authority.

Declaration of Interest

33.(1) A Municipal Planning Authorised Officer, member of the Municipal Planning Tribunal, member of the Municipal Council, municipal official to whom the power to decide an appeal in terms of this By-law have been delegated, Municipal Planning Registrar, Deputy Municipal Planning Registrar, Municipal Planning Appeal Authority Registrar or Deputy Municipal Planning Appeal Authority Registrar must, within 10 days of being appointed, submit a written declaration to the Municipal Manager –

- (a) declaring his or her financial or other interests in the planning sector or related sectors which may be in conflict with their appointment;
- (b) declaring financial or other interests in development undertaken by family members and close associates in the Municipality; and
- (c) declaring any conviction for a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(2) If a person's interest status changes, he or she must, within 10 days of the date the change of status, submit a written declaration of the change to the Municipal Manager.

(3) The Municipal Manager must keep a register of the interests disclosed.

Holding more than one office simultaneously

34.(1) The same person may simultaneously hold more than one of the following offices of:

- (a) Municipal Planning Authorised Officer;
- (b) Municipal Planning Registrar;
- (c) Deputy Municipal Planning Registrar;
- (d) a member of the Municipal Planning Tribunal;
- (e) Municipal Planning Appeal Authority Registrar; and
- (f) Deputy Municipal Planning Appeal Authority Registrar.

(2) It does not constitute a conflict of interest if a person serves as a Municipal Planning Authorised Officer and –

- (a) Municipal Planning Registrar or Deputy Municipal Planning Registrar; or
- (b) Municipal Planning Appeal Authority Registrar or Deputy Municipal Planning Appeal Authority Registrar,

on the same application for municipal planning approval.

(3) It does not constitute a conflict of interest if a person serves as member of the Municipal Planning Tribunal and –

- (a) the Municipal Planning Registrar or Deputy Municipal Planning Registrar;
- (b) Municipal Planning Appeal Authority Registrar or Deputy Municipal Planning Appeal Authority Registrar,

on the same application for municipal planning approval.

(4) It does not constitute a conflict of interest for a person to serve as member of the Municipal Planning Tribunal to decide or make a recommendation on an application for municipal planning approval in the capacity as both a Registered Planner and an official in the full-time service of the Municipality.

(5) It does not constitute a conflict of interest for a person to serve as member of the Municipal Planning Tribunal to decide or make a recommendation on an application for municipal planning approval in the capacity as both a Registered Planner and as a person who is not a municipal official.

(6) It constitutes a conflict of interest if a person serves as a member of the Municipal Planning Approval Authority and the Municipal Planning Appeal Authority.

(7) It constitutes a conflict of interest if a person serves as an Authorised Municipal Planning Official or a member of the Municipal Planning Tribunal and an Expert Technical Advisor for the Municipal Planning Appeal Authority on the same application for municipal planning approval.

(8) A Municipal Planning Enforcement Officer may not also hold the office of –

- (a) Municipal Planning Registrar;
- (b) Deputy Municipal Planning Registrar;
- (c) Municipal Planning Authorised Officer;
- (d) a member of a Municipal Planning Tribunal;
- (e) Municipal Planning Appeal Authority Registrar; or
- (f) Deputy Municipal Planning Appeal Authority Registrar.

(9) The Municipal Council may not delegate the power to decide an appeal in terms of this By-law to a Municipal Planning Enforcement Officer.

Recusal

35.(1) A Municipal Planning Authorised Officer, member of the Municipal Planning Tribunal, member of the Municipal Council, municipal official to whom the power to decide an appeal in terms of this By-law have been delegated, Municipal Planning Registrar, Deputy Municipal Planning Registrar, Municipal Planning Appeal Authority Registrar or Deputy Municipal Planning Appeal Authority Registrar may not be present or participate in a matter in which –

- (a) he or she; or
- (b) his or her spouse, immediate family, business associate, employer or employee,

has any interest, whether pecuniary or otherwise.

(2) A member of the Municipal Planning Tribunal who has been designated by the Chairperson of the Municipal Planning Tribunal to make a recommendation on or decide an application for municipal planning approval or member of the Municipal Council must fully disclose the nature of an interest and recuse him or herself from the proceedings, if the member becomes aware of the possibility of having a disqualifying interest in an application.

(3) The recusal of a member of the Municipal Planning Tribunal or Municipal Council does not affect the validity of the proceedings conducted before the Municipal Planning Tribunal, Municipal Council or Executive Authority of the Municipality before the recusal, and the remaining members of the Municipal Planning Tribunal designated by the Chairperson of the Municipal Planning Tribunal, Municipal Council or Executive Authority of the Municipality are competent to make the recommendation or to decide the application or appeal, as long as the recusal occurs before the members of the Municipal Planning Tribunal, Municipal Council or Executive Authority of the Municipality adjourn to deliberate their decision.

(4) In the event that the Presiding Officer recuses him or herself, the Chairperson of a Municipal Planning Tribunal must designate another member who is a Registered Planner, attorney or advocate as Presiding Officer for the duration of the proceedings before the Tribunal

Conflict of interest of Municipal Planning Enforcement Officer

36. A Municipal Planning Enforcement Officer may not have a direct or indirect personal interest in the matter to be investigated.

Liability of Municipal Planning Approval Authority, Municipal Planning Appeal Authority and their support staff

37. The Municipal Planning Approval Authority and Municipal Planning Appeal Authority, a member thereof and their support staff are not liable in respect of any legal proceedings in relation to an act performed in good faith in terms of this By-law.

Legal indemnification

38.(1) If a claim is made or legal proceedings are instituted against a member of the Municipal Planning Approval Authority or Municipal Planning Appeal Authority or their support staff arising out of any act or omission by the member or support staff in the performance of his or her duties or the exercise of his or her powers in terms of this By-law, the Municipality must, if it is of the opinion that the person acted in good faith and without negligence –

- (a) if a civil claim or civil proceedings is instituted against the person –
 - (i) indemnify the person in respect of such claim or proceedings; and
 - (ii) provide legal representation for the person at the cost of the Municipality or pay taxed party and party costs of legal representation.
- (b) if a criminal prosecution is instituted against the person, provide for legal representation for the person at the cost of the Municipality.

(2) A member of the Municipal Planning Approval Authority or Municipal Planning Appeal Authority or their support staff has no legal indemnification if he or she, with regard to the act or omission, is liable in law and –

- (a) intentionally exceeded his or her powers;
- (b) made use of alcohol or drugs;
- (c) did not act in the course and scope of his or her employment, designation or appointment;
- (d) acted recklessly or intentionally;
- (e) made an admission that was detrimental to the Municipality; or
- (f) failed to comply with or ignored standing instructions, of which he or she was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim.

(3) The Municipality may determine by means of a policy or by other means –

- (a) the terms and conditions of such indemnity and legal representation; and
- (b) circumstances in addition to the circumstances contemplated in this section in which indemnity or legal representation may be withdrawn by the Municipality.

CHAPTER 3
LAND USE SCHEME

Purpose of land use scheme

39.(1) The purpose of the land use scheme is to determine development rights and parameters in the Municipality in order to –

- (a) give effect to the policies and plans of national, provincial and municipal government, including the Municipality's own policies and plans;
- (b) protect reasonable individual and communal interests in land;
- (c) promote sustainable and desirable development;
- (d) develop land in a manner that will promote the convenience, efficiency, economy, health, safety and general welfare of the public;
- (e) promote social integration;
- (f) promote economic growth and job creation;
- (g) limit nuisance and undesirable conditions in the development of land;
- (h) limit and mitigate the impact of development on the natural environment;

- (i) promote the protection of valuable natural features and the conservation of heritage sites and areas of public value; and
- (j) promote national food security.

Contents of land use scheme

40.(1) A land use scheme must –

- (a) be shown on maps with accompanying clauses and any other information that the Municipality considers necessary for illustrating or explaining the extent, content, provisions and effect of the land use scheme;
- (b) define the area to which it applies;
- (c) define the terminology used in the maps and clauses; and
- (d) specify –
 - (i) categories of land uses and development that are permitted and the conditions under which they are permitted;
 - (ii) categories of land uses and development that may be permitted with the Municipality's consent in terms of the land use scheme, including –
 - (aa) the criteria that will guide the Municipality in deciding whether to grant its consent;
 - (bb) the controls which apply if the Municipality grants its consent;
 - (cc) consents for which notice in a local newspaper is not required;
- (e) categories of land uses and development that are not permitted;
- (f) the extent to which land that was being used lawfully for a purpose that does not conform to the land use scheme may be continued to be used for that purpose and the extent to which buildings or structures on that land may be altered or extended;
- (g) provisions to promote the inclusion of affordable housing in residential land development;
- (h) land use and development incentives to promote the effective implementation of the Municipality's Spatial Development Framework and development policies; and
- (i) a schedule of amendments to the land use scheme.

(2) A land use scheme may include –

- (a) a schedule of land use scheme amendments and consents;
- (b) a schedule of consents granted in terms thereof; and
- (b) schedules containing guidelines, forms and other information that is purely intended for information purposes.

Legal effect of land use scheme

41.(1) The land use scheme provides for land use and development rights and has the force of law and is binding on the Municipality, all other persons and organs of state.

(2) The right to use land for a purpose without the need to first obtain the consent of the Municipality in terms of the land use scheme vests in the land and not in a person.

(3) Consent in terms of the land use scheme vests in land and not in a person, unless the Municipal Planning Approval Authority concerned has determined that it constitutes a personal right in favour of a defined person and may only be exercised by that person.

(4) The right to use land for a purpose may not be alienated separately from the land to which it relates, unless the Municipality has provided in a by-law for the transfer of land use rights to other land.

(5) Land that was being used lawfully before the effective date for the adoption of land use scheme for a purpose that does not conform to the land use scheme may continue to be used for that purpose.

(6) If the use of land as contemplated in subsection (5) is discontinued for an uninterrupted period of more than 12 months, the land may no longer be used for that purpose.

Existing land use scheme

42. Upon the commencement of this By-law the land use scheme shall consist of –

- (a) any land use scheme, including amendments to it, adopted in terms of section 13(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (b) any town planning scheme adopted, altered or amended in terms of section 47bis(4)(a) or section 47bisA(4) of the Town Planning Ordinance; and
- (c) any amendments by the Development Tribunal in terms of section 33(2)(h)(i) of the Development Facilitation Act to a town planning scheme adopted in terms of section 47bis(4)(a) or section 47bisA(4) of the Town Planning Ordinance.

Adoption of land use scheme

43.(1) The Municipality must, by 1 July 2020, adopt a land use scheme in ESRI Shapefile format for its whole municipal area.

(2) A land use scheme may be progressively adopted and made applicable as resources and circumstances permit.

Inclusion of land that is occupied in an unstructured manner by a traditional community or indigent households in the land use scheme

44.(1) If land that is occupied in an unstructured manner by a traditional community or indigent households is included in the land use scheme, the community's accepted land use patterns and land use management practices must not be unduly disturbed.

(2) The regulation of land use, controls associated therewith and the enforcement thereof may be introduced progressively as, in the opinion of the Municipal Council, adherence to the land use scheme warrants their introduction.

(3) The community and its leadership, including traditional leaders, must be consulted when land occupied by a traditional community or indigent households is included in a land use scheme.

(4) If the land occupied by indigent households is not administered by traditional leaders or any other legal entity, the Municipality must –

- (a) initiate the formation of an informal voluntary association consisting of the residents of the settlement over the age of 18 years to represent the community;
- (b) initiate the formation of a management committee elected by the members of the voluntary association; and
- (c) initiate the adoption of rules to govern the voluntary association.

(5) The rules of a voluntary association must be democratic, inclusive and permit all opinions to be articulated.

(6) The Municipality, in consultation with the community and its leadership, including traditional leaders must –

- (a) identify all existing non-residential and non-agricultural informal rights to the land;
- (b) identify the land uses associated with the rights and the nature and extent of the rights;
- (c) locate the rights geographically on a map;
- (d) identify and record for each holder of a non-residential and non-agricultural informal right to the land –
 - (i) the name, identity number and contact details of the holder of the informal right to the land;
 - (ii) the name of the household which the holder of the informal right to the land represents;
 - (iii) the name of the traditional area and of the isiGodi where the land is situated, if applicable;

- (iv) the name of the Inkosi of the traditional area and of the isiNduna of the isiGodi, if applicable;
- (v) the GPS co-ordinates for the site to which the informal right applies with sufficient details to indicate its approximate extent; and
- (vi) photographic evidence of the site.

(7) The information contained in subsection (6) must inform the Municipality in the preparation of the land use scheme.

Review of land use scheme

45.(1) The Municipality must review the land use scheme within six months after it has adopted an Integrated Development Plan for its elected term in terms of section 25 of the Municipal Systems Act.

(2) The process for the amendment of the land use scheme must be followed to update the land use scheme in accordance with the Municipality's recommendations.

CHAPTER 4 MUNICIPAL PLANNING APPROVAL

Activities for which an application for municipal planning approval is required

46. An application for municipal planning approval is required for –

- (a) the adoption of a land use scheme;
- (b) the amendment of a land use scheme;
- (c) a Municipality's consent in terms of a land use scheme;
- (d) the repeal of a land use scheme;
- (e) the development of land that is situated outside the area of a land use scheme, if the development constitutes an activity contemplated in Schedule 3;
- (f) the extension or replacement of a building on land that is used for a purpose defined in Schedule 3, notwithstanding that municipal planning approval was not required at the time that the use of the original building for that purpose commenced;
- (g) the subdivision of a land;
- (h) the consolidation of land;
- (i) township establishment;
- (j) the notarial tying of adjacent land;
- (k) the extension of a sectional title scheme by the addition of land to common property in terms of section 26 of the Sectional Titles Act;
- (l) the permanent closure of a municipal road or a public place;
- (m) the removal, amendment or suspension of a restrictive condition of title or a servitude;
- (n) a material change to a Municipality's decision on an application for municipal planning approval;
- (o) the cancellation of a Municipality's decision on an application for municipal planning approval, except a decision to adopt or amend a land use scheme.

Activities for which an application for municipal planning approval is not required

47.(1) An application for municipal planning approval is not required for an amendment to a land use scheme –

- (a) for the creation of private roads, municipal roads, local roads or district roads when land is subdivided in accordance with the purpose for which it has been zoned in a land use scheme, unless the land use scheme expressly provides otherwise;
- (b) to record the actual use of a land or preferred use of land that is used in accordance with the provisions of the land use scheme, unless the land use scheme expressly provides otherwise;
- (c) to record features and attributes, like historical buildings, archaeological sites and prominent ridges;
- (d) to identify and show land that is subject to the Subdivision of Agricultural Land Act;

- (e) to identify and show geographical areas in which activities may not commence without environmental approval contemplated in section 24(2)(a) of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- (f) to identify and show geographical areas in which activities may commence without environmental approval contemplated in section 24(2)(b) of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- (g) to amend a schedule consisting of a register of land use scheme amendments;
- (h) to amend a schedule consisting of a register of consents granted in terms of the land use scheme; and
- (i) to amend a schedule consisting of guidelines, forms and other information that is purely intended for information purposes

(2) An application for municipal planning approval is not required outside the area of a land use scheme for a development that does not constitute an activity listed in Schedule 3.

(3) An application for municipal planning approval is not required for the use of a building that is situated outside the area of a land use scheme, if –

- (a) the building has been used for a purpose defined in Schedule 3; and
- (b) the use of the building for that purpose has commenced –
 - (i) before development approval was required for the development in terms of section 11(2) of the Town Planning Ordinance with effect from 1 August 1951;
 - (ii) before section 11(2) of the Town Planning Ordinance was amended to require development approval for the development with effect from 10 October 2008; or
 - (iii) before development approval was required in terms of section 14 of the KwaZulu Land Affairs Act, 1992 (Act No. 11 of 1992) with effect from 19 June 1998.

(4) An application for municipal planning approval contemplated in section 46(l) is not required for the permanent closure of a municipal road or a public place that has not been registered in separate ownership by the Registrar of Deeds, but an application contemplated in section 70 may be required to remove references to the proposed municipal road or public place from the Municipal Planning Approval Authority's Record of Decision.

Restrictive conditions of title and servitudes that may be removed, amended or suspended in terms of this By-law

48.(1) A condition of title or servitude –

- (a) that is registered against land;
- (b) that the land is subject to; and
- (c) that relates to –
 - (i) the subdivision or consolidation of the land;
 - (ii) the purpose for which the land may be used; or
 - (iii) requirements that must be complied with for the erection of buildings or the use of the land;

may be removed, amended or suspended in terms of this By-law .

(2) A restrictive condition or servitude imposed in terms of –

- (a) a restrictive condition of title or servitude imposed by the Administrator, Premier or responsible Member of the Executive Council for Transport in terms of section 9(3) or 9A(1) of the Advertising on Roads and Ribbon Development Act, 1940 (Act No. 21 of 1940);
- (b) the Roads Ordinance, 1968 (Ordinance No. 10 of 1968); or
- (c) the KwaZulu Roads Amendment Act, 1978 (KwaZulu Act No. 11 of 1978),

may be removed, suspended or altered in terms of this Act with the express written consent of the Member of the Executive Council responsible for Transport.

(3) An endorsement in a title deed that a part of a property has been expropriated may be removed, suspended or altered in terms of this Act with the express written consent of the organ of state that expropriated the land.

Conditions of title and servitudes that may not be removed, amended or suspended in terms of this By-law

49.(1) A condition of title or servitude that benefits land may not be removed, amended or suspended, unless the corresponding restrictive condition of title or servitude that is subject to the condition or servitude is also removed, amended or suspended.

(2) A mineral right registered against land may not be removed, amended or suspended in terms of this By-law.

(3) A restrictive condition of title in favour of the KwaZulu-Natal Nature Conservation Board may not be removed, amended or suspended in terms of this By-law without the Board's written permission.

(4) A restrictive condition of title or servitude imposed by the South African Roads Board in terms of the South African Roads Board Act, 1988 (Act No. of 1988) may not be removed, amended or suspended in terms of this By-law.

(5) A restrictive condition of title or servitude imposed by the South African National Roads Agency Limited (SANRAL) in terms of section 44(3) of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998) may not be removed, amended or suspended in terms of this By-law.

(6) A restrictive condition of title or servitude imposed by the Minister or the responsible Member of the Executive Council responsible for Roads in terms of sections 10(1)(c), 13(2)(b), 20(2)(b) or 21(2)(b) of the KwaZulu-Natal Provincial Roads Act may not be removed, amended or suspended in terms of this By-law.

(7) A restrictive condition relating to the sale of land, including a right to purchase land and a condition that the value of a building must exceed a minimum amount, may not be removed, suspended or altered in terms of this By-law.

(8) A restrictive condition relating to the inheritance of land, including a condition that grants a person the right to use the land for the person's lifetime, may not be removed, suspended or altered in terms of this By-law.

Relationship between municipal planning approval and the Municipality's Integrated Development Plan

50.(1) The Integrated Development Plan does not confer any rights on a person or exempt a person from the need to obtain municipal planning approval contemplated in section 46.

(2) The Municipal Planning Approval Authority must be guided and informed by the Integrated Development Plans applicable in its area as contemplated in section 35(1) of the Municipal Systems Act when it decides an application for municipal planning approval.

(3) The Municipal Planning Approval Authority may refuse an application for municipal planning approval, even if the application conforms to the Integrated Development Plans applicable in its area.

(4) The Municipal Planning Approval Authority may not approve an application for municipal planning approval that is inconsistent with an Integrated Development Plan that is applicable in its area.

(5) For the purposes of subsection (4) "inconsistent" means –

(a) that the Integrated Development Plan prohibits the use or development of the land for the purpose or in the manner proposed in the application for municipal planning approval;

(b) that the Integrated Development Plan proposes that the land should be used or developed for a purpose or in a manner that is irreconcilable with the application for municipal planning approval; or

(c) that the use or development of land is dependent on engineering services from the Municipality or another organ of state that according to the Integrated Development Plan will not be made available in the area in which the land that is the subject of the application for municipal planning approval is located.

(6) The Municipality may amend its Integrated Development Plan in terms of section 34(b) of the Municipal Systems Act in order to reconcile it with an application for municipal planning approval.

(7) The Municipality may approve an amendment to its Integrated Development Plan in order to reconcile it with an application for municipal planning approval subject to a condition –

(a) that the amendment will only take effect on the effective date of the approval for the application for municipal planning approval; and

(b) that the amendment will lapse, if the application for municipal planning approval is refused.

Relationship between land use scheme and other municipal planning approvals

51.(1) If a person wants to use land that is situated outside the area of a land use scheme for a purpose listed in Schedule 3, the Municipality must require an application to amend its land use scheme to accommodate the land use, unless –

(a) it does not have a land use scheme and the scale of the development does not justify the adoption of a land use scheme;

(b) the land is subject to the Subdivision of Agricultural Land Act and the Minister responsible for the administration thereof has approved the subdivision of the land in terms of section 3(a) read with section 4(2), but has refused to allow the Municipality to regulate the use of the land by a land use scheme in terms of section 3(g) read with section 4(2) of the Subdivision of Agricultural Land Act.

(2) The Municipality may not approve the subdivision of land or consolidation of land in conflict with the provisions of the land use scheme.

(3) An approval for the subdivision or consolidation of land or establishment of a township in conflict with the provisions of the land use scheme is invalid.

Relationship between municipal planning approval and other approvals

52.(1) Municipal planning approval does not absolve an applicant from the need to obtain any other statutory approval for the activity.

(2) A sectional plan in terms of section 1 of the Sectional Titles Act that is in conflict with the provisions of the land use scheme is invalid.

(3) The Municipality or any other organ of state may not approve a building plan that is in conflict with–

(a) the Municipality's land use scheme;

(b) consent in terms of a land use scheme;

(c) the development of land that is situated outside the area of a land use scheme;

(d) the subdivision of land;

(e) the consolidation of land;

(f) the notarial tying of land;

(g) the permanent closure of a municipal road or a public place; or

(h) a condition of title relating to use or development of land.

(4) Building plan approval that is in conflict with –

(a) a Municipality's approval for –

(i) the Municipality's land use scheme;

- (ii) consent in terms of a land use scheme;
 - (iii) the development of land that is situated outside the area of a land use scheme;
 - (iv) the subdivision of a land;
 - (v) the consolidation of land;
 - (vi) the notarial tying of land;
 - (vii) the permanent closure of a municipal road or a public place;
 - (b) a condition of title relating to use or development of land,;
 - (c) a conservation servitude imposed by the KwaZulu-Natal Nature Conservation Board,
- is invalid.

(5) If an activity requires both municipal planning approval and building plan approval, municipal planning approval must be obtained before building plan approval may be granted.

Procedure for municipal planning approval

53.(1) The procedure in Schedule 4 must be followed for all applications for municipal planning approval, except for the erection of a dwelling house on land declared by the Municipality as land for the settlement in an unstructured manner by a traditional community or indigent households contemplated in section 121(1).

(2) The provisions of Schedule 5 apply, if public consultation is required as contemplated in item 11(1) of Schedule 4.

(3) An application for an amendment to an application for municipal planning approval prior to notice of a Municipal Planning Approval Authority's decision must follow the process in item 1 of Schedule 6.

(4) The procedure in Schedule 7 must be followed for an application for municipal planning approval for the erection of a dwelling house on land declared by the Municipality as land for the settlement in an unstructured manner by a traditional community or indigent households contemplated in section 121(1).

(5) The provisions of subsections (1) to (3) and sections 54 to 72 do not apply to an application for municipal planning approval for the erection of a dwelling house on land declared by the Municipality as land for the settlement of indigent households in an unstructured manner.

Municipal Planning Approval Authority's decision

54.(1) A Municipal Planning Approval Authority must consider the matters listed in Schedule 8 when it decides or make a recommendation on an application for municipal planning approval.

- (2) If the Municipal Planning Approval Authority is the Municipal Council –
- (a) it may consider a summary of the comments received in response to the public consultation process, instead of the comments; and
 - (b) it must consider the Tribunal's recommendation on the application in addition to the matters in Schedule 8.

(3) The Municipal Planning Approval Authority must –

- (a) approve, including partly approve; or
- (b) refuse,

an application for municipal planning approval.

(4) The Municipal Planning Approval Authority may not approve an application for municipal planning approval that is inconsistent with –

- (a) the national planning norms and standards;
- (b) the provincial planning norms and standards;
- (c) Its Integrated Development Plan;

- (d) its Spatial Development Framework, except where site specific circumstances justify a departure from its provisions.
- (5) The Municipal Planning Approval Authority may not approve an application for municipal planning approval for –
- (a) the Municipality's consent in terms of a land use scheme;
 - (b) the subdivision of land;
 - (c) the consolidation of land;
 - (d) the notarial tying of properties; or
 - (e) the permanent closure of a municipal road or a public place,
- that is in conflict with the land use scheme.
- (6) The Municipal Planning Approval Authority may approve an application for municipal planning approval, subject to any conditions, including conditions relating to –
- (a) the extent of the applicant's obligation to provide engineering services;
 - (b) the creation of a servitude in favour of the land or against the land in favour of other land;
 - (c) the removal, suspension or amendment of a condition of title or a servitude that prevents the development of the land in accordance with the Municipal Planning Approval Authority 's decision;
 - (d) a duty to furnish to the Municipality with a guarantee issued by a financial institution or other guarantor acceptable to the Municipality, within a period specified in the condition for an amount sufficient to cover the costs of –
 - (i) fulfilling the obligations of the applicant to provide engineering services; or
 - (ii) complying with any other condition of approval;
 - (e) arrangements for the transfer of a municipal road, park or open space to the Municipality;
 - (f) a prohibition on the alienation of a part of the land by means of a sectional title scheme in terms of the Sectional Titles Act or a share block in terms of the Share Blocks Control Act, 1980 (Act No. 59 of 1980);
 - (g) the regulation of buildings in the case of an application for a development situated outside the area of a land use scheme, including –
 - (i) the maximum or minimum number of buildings which may be built;
 - (ii) the maximum or minimum size of buildings;
 - (iii) the location of buildings; and
 - (iv) restrictions on building materials.
- (7) If it is a condition for the approval of the subdivision of land or establishment of a township that the Municipality requires land for use as a municipal road, park or other open space, the applicant must, at his, her or its own cost transfer the land for use as a road, park or other open space to the Municipality.

(8) Land that the Municipality requires for use as a municipal road, park or other open space must be regarded as land of which the ownership vests in the municipality contemplated in section 32 of the Deeds Registries Act.

Record of Decision

55.(1) If the Municipal Planning Approval Authority is an Municipal Planning Authorised Officer, the Municipal Planning Authorised Officer must draft the Record of Decision.

(2) If the Municipal Planning Approval Authority is a Municipal Planning Tribunal or the Municipal Council, a Registered Planner member designated by the Chairperson of a Municipal Planning Tribunal in terms of section 16(2) must draft the Record of Decision.

(3) If a development involved both a decision from a Municipal Planning Tribunal and the Municipal Council, a Registered Planner member designated by the Chairperson of a Municipal Planning Tribunal in terms of section 16(2) must draft a combined Record of Decision.

(4) A Record of Decision must include the information listed in Schedule 9.

Persons who must be informed of a Municipal Planning Approval Authority's decision

56. The Municipal Planning Registrar must, within 21 days after a Municipal Planning Approval Authority decided to approve or refuse an application for municipal planning approval, serve a copy of the Record of Decision –

- (a) on the applicant;
- (b) on every person who has lodged written comments in response to an invitation to comment on the application by the closing date stated in the invitation contemplated in item 7(f) of Schedule 6, if persons were invited to comment on the application; and
- (c) every person who has been granted leave to intervene in the application for municipal planning approval contemplated in section 125(3)(a).

Appeal against Municipal Planning Approval Authority's decision

57.(1) A person whose rights are affected by a decision by a Municipal Planning Authorised Officer or the Municipal Planning Tribunal to approve or refuse an application for municipal planning approval may appeal against that decision.

(2) A person whose rights are affected by a decision by a Municipal Planning Authorised Officer or the Municipal Planning Tribunal to approve or refuse an application for municipal planning approval include the following persons –

- (a) an applicant;
- (b) a person, including a person who has been granted leave to intervene in the application for municipal planning approval contemplated in section 125(3)(a), who has –
 - (i) a proprietary interest;
 - (ii) pecuniary interest; or
 - (iii) other interest,that will be adversely affected by the decision, excluding a reduction in the value of the land; and
- (c) a municipality in which the land is located.

(3) An appellant must lodge a memorandum of appeal, contemplated in item 1 of Schedule 10, within 30 days of being regarded as having been notified of a Municipal Planning Authorised Officer or Municipal Planning Tribunal's decision.

(4) The right to appeal to the Municipal Planning Appeal Authority against a decision by a Municipal Planning Authorised Officer or the Municipal Planning Tribunal lapses, if an appellant fails to lodge a memorandum of appeal within 30 days of being regarded as having been notified of the decision.

Effective date of Municipal Planning Approval Authority's decision on application

58. A decision on an application for municipal planning approval comes into effect upon –

- (a) the date of the Record of Decision, if –
 - (i) no comments were received in response to an invitation for the public to comment on the application;
 - (ii) no person has applied for leave to intervene contemplated in section 125(1) before the application was decided; and
 - (iii) the applicant has waived the right to appeal;
- (b) the expiry of the 30 day period contemplated in section 57(2), if –
 - (i) comments were received in response to an invitation for the public to comment on the application;
 - (ii) a person has applied for leave to intervene contemplated in section 125(1) before the application was decided; or
 - (iii) the applicant has not waived the right to appeal;

- (c) the date upon which the Presiding Officer of the Municipal Planning Appeal Authority confirmed that an appeal is invalid, if an applicant or a Municipality successfully made an urgent application to declare an appeal invalid, unless the application for municipal planning approval is subject to another valid appeal;
- (d) the date upon which the Presiding Officer of the Municipal Planning Appeal Authority has confirmed that –
 - (i) a decision on an application for municipal planning approval may commence in respect of land that is not affected by the appeal; or
 - (ii) parts of a decision for municipal planning approval that are not affected by the appeal may commence, if an applicant or the Municipality successfully made an urgent application for the partial commencement of a decision to approve an application for municipal approval;
- (e) the date upon which an appeal is withdrawn, unless the application for municipal planning approval is subject to another appeal;
- (f) the finalisation of an appeal, if an appeal was lodged against the decision of a Municipal Planning Authorised Officer or the Municipal Planning Tribunal and –
 - (i) the Chairperson of the Municipal Planning Appeal Authority has not declared the appeal invalid; or
 - (ii) granted approval for the partial commencement of the decision of the Municipal Planning Approval Authority in respect of the properties or parts of the decision of the Municipal Planning Approval Authority.

Prohibition on making a substantially similar application, if an application was refused

59.(1) If a Municipal Planning Approval Authority refused an application for municipal planning approval, a substantially similar application may not be brought in terms of this By-law, or any other law, within a period of two years after the date of refusal, without its written permission.

(2) A Municipal Planning Approval Authority may grant permission in writing that a substantially similar application for municipal planning approval may be brought in terms of this By-law within a period of less than two years after the date that it refused an application for municipal planning approval, if circumstances have changed to such an extent that there is a reasonable prospect that the application may be approved.

Certification of compliance with conditions of approval

60.(1) A Municipality must certify that the conditions of approval that must be complied with –

- (a) before the erection of a structure on land or the use of land in accordance with the approval;
- (b) before the construction of a building on the land;
- (c) before occupation of the land; and
- (d) before the land may be registered in separate ownership

have been complied with.

(2) The prohibition on the use of land before compliance with the conditions of approval does not prohibit the use of the land for the purposes that it was lawfully used before municipal planning approval was applied for, unless a Municipal Planning Approval Authority directed otherwise in the conditions of approval.

(3) The prohibition on the occupation of a building before compliance with the conditions of approval does not prohibit the occupation of a building that was lawfully in existence on the land before municipal planning approval was granted, unless a Municipal Planning Approval Authority directed otherwise in the conditions of approval.

Transfer of roads, parks and other open spaces

61.(1) If it is a condition for the approval of the subdivision land that the Municipality requires land for use as a municipal road, park or other open space, the applicant must, at his, her or its own cost transfer the land for use as a road, park or other open space to the Municipality.

(2) Land that the municipality requires for use as a municipal road, park or other open space must be regarded as land of which the ownership vests in the Municipality contemplated in section 32 of the Deeds Registries Act.

Disclosure that land is not registrable before compliance with conditions

62. An agreement for the alienation of a subdivision of land or for consolidated land that was approved by a Municipality, but for which it has not issued a certificate that the owner has complied with the conditions of approval before it may be registered in separate ownership, must contain a clause disclosing –

- (a) that the owner has not yet complied with the conditions of approval; and
- (b) that the land is not registrable as contemplated in section 1 of the Alienation of Land Act, 1981 (Act No. 68 of 1981).

Vesting of ownership of land after permanent closure of municipal road or public place

63.(1) The ownership of land that formed part of a municipal road or a public place, must, upon the permanent closure of the municipal road or public place –

- (a) vest in the person in whose name the land was registered before the permanent closure of the municipal road or public place;
- (b) vest in a person agreed to in writing between –
 - (i) that person;
 - (ii) the municipality; and
 - (iii) the person in whose name the land was registered before the permanent closure of the municipal road or public place; or
- (c) vest in the municipality, if the municipality has taken reasonable steps to locate the person in whose name the land was registered before the permanent closure of the municipal road or public place without success.

(2) For the purpose of subsection (1)(c), reasonable steps include the publication of a notice in a local newspaper inviting anyone who has an interest in the ownership of the land to contact the municipality by a date specified in the notice, which date may not be earlier than 30 days, excluding public holidays, after the date that the notice is published.

Lodging of plans and documents with Surveyor-General for the subdivision of a land, consolidation of land or the permanent closure of a municipal road or public place

64.(1) An owner must –

- (a) ensure that all unapproved diagrams, unapproved general plans, plans and other documents, that the Surveyor-General may require for the registration of the subdivision or consolidation of land, establishment of a township, or recording the permanent closure of a municipal road or a public place that are shown as a road or a public place on a general plan are lodged with the Surveyor-General; and
- (b) submit a certified copy of the approved diagram or general plan, to the Municipality within 30 days after the date on which the Surveyor-General has approved the diagram or general plan, if the applicant is a person or an organ of state, other than the Municipality.

(2) A professional land surveyor who lodges unapproved diagrams, unapproved general plans, plans and other documents on behalf of an owner with the Surveyor-General, must include an affidavit in the submission confirming –

- (a) that the decision of the Municipal Planning Approval Authority is authentic and that it was made by a person or body authorised to make the decision; and
- (b) that the layout plan is the layout plan that was approved by the municipal planning approval authority.

Diagram and general plan for the subdivision of land or consolidation of land

65.(1) If an approval for the subdivision of land involves the creation of less than ten subdivisions, excluding land that will be used for the purpose of constructing roads, the Surveyor-General may approve a diagram for each property, or a general plan for all the land.

(2) If an approval for the subdivision of a land involves the creation of ten or more subdivisions, excluding land that are used for the purpose of constructing roads, the Surveyor-General may not approve a diagram for each property, but must approve a general plan or general plans for the properties.

Registration of ownership for subdivision of land, consolidated of land or opening of township register

66.(1) A land owner who wishes to register land must lodge with the Registrar of Deeds the diagrams or general plan together with the deeds and other documents that the Registrar of Deeds requires for the registration thereof.

(2) Subject to national legislation, the Registrar of Deeds may not register land in separate ownership, unless the Municipality has issued a certificate stating that the conditions of approval for the subdivision of the land, consolidation of the land, or township establishment that must be complied with before the land may be registered in separate ownership as contemplated in item 1(c)(iv) of Schedule 9, have been complied with.

(3) If the subdivision of land, consolidation of land or township establishment is approved subject to the imposition of a condition of title, the condition of title must be registered against the land by the Registrar of Deeds.

(4) If the subdivision of land, consolidation of land or township establishment is approved subject to the imposition of a condition of title –

- (a) that must be registered against the remainder of the land; and
- (b) the remainder is to be retained by the transferor,

it must be endorsed against the title of the remainder of the land upon the registration of the last portion of land into separate ownership.

Lodging of deeds, plans and documents with Registrar of Deeds for permanent closure of municipal road or public place

67.(1) An owner must ensure that all diagrams, plans and other documents that the Registrar of Deeds may require to record the permanent closure of a municipal road or a public place are lodged with the Registrar of Deeds.

(2) If a Municipality has determined that the ownership of land that formed part of a municipal road or a public place, will, upon the closure thereof vest in it or in another organ of state –

- (a) it is not necessary for the land to be transferred to the Municipality or the organ of state; and
- (b) subject to national legislation, the Registrar of Deeds must make the necessary entries to give effect to registration of the land in the name of the Municipality or organ of state.

Lodging of deeds, plans and documents with Registrar of Deeds pursuant to an application for the removal, amendment, or suspension of a restrictive condition of title or servitude and certificate of compliance with certain conditions of approval

68.(1) A land owner must ensure that the deeds and other documents that the Registrar of Deeds may require to record the removal, amendment, or suspension of a restrictive condition of title or servitude are lodged with the Registrar of Deeds.

(2) A person may not apply to the Registrar of Deeds to record the removal, amendment, or suspension of a restrictive condition of title or servitude, unless the Municipality has issued a certificate stating that the conditions of approval that have to be complied with before the condition of title or servitude may be removed, amended or suspended have been complied with.

Application for an amendment to a Municipal Planning Approval Authority's Record of Decision to correct an error in the wording of the decision, correct a spelling error, update a property description, or update a reference to a law, person, institution, place name or street name

69. An application for an amendment to a Municipal Planning Approval authority's Record of Decision to correct an error in the wording of the decision, correct a spelling error, update a property description, or update a reference to a law, person, institution, place name or street name must follow the process in item 1 of Schedule 6.

Application for a non-material amendment to a decision on an application or cancellation of municipal planning approval

70. An application for a non-material amendment to a decision on an application for municipal planning approval or cancellation of municipal planning approval must follow the process in item 3 of Schedule 6.

Cancellation or partial cancellation by Municipality of rights that have not been fully exercised

71.(1) A Municipality may unilaterally initiate the cancellation of –

- (a) a consent that it has granted in terms of a land use scheme;
- (b) municipal planning approval for the development of a land that is situated outside the area of a land use scheme;
- (c) municipal planning approval for the subdivision of land;
- (d) municipal planning approval for the consolidation of land; and
- (e) municipal planning approval for the notarial tying of land,

if the rights have not been fully exercised.

(2) A Municipality may only initiate the unilateral cancellation or partial cancellation of –

- (a) a consent that it has granted in terms of a land use scheme;
- (b) municipal planning approval for the development of a land that is situated outside the area of a land use scheme,

ten years after the date on which the Municipality's consent or approval became effective.

(3) A Municipality may only initiate the unilateral cancellation or partial cancellation of –

- (a) municipal planning approval for the subdivision of land;
- (b) municipal planning approval for the consolidation of land; and
- (c) municipal planning approval for the notarial tying of land,

ten years after the date on which the Municipality's consent or approval became effective.

(4) A Municipality may not unilaterally initiate the cancellation or partial cancellation of –

- (a) municipal planning approval for the subdivision of land; or
- (b) municipal planning approval for the consolidation of land,

of properties that have been registered in separate ownership by the Registrar of Deeds.

Process for the cancellation or partial cancellation of rights by Municipality that have not been fully exercised

72.(1) A Municipality must serve notice on the owner –

- (a) warning the owner that it may cancel or partially cancel –
 - (i) a consent granted in terms of a land use scheme;
 - (ii) the right to development of land situated outside the area of a land use scheme;
 - (iii) the right to subdivide land; or
 - (iv) the right to consolidate land;
 - (v) the right to notarial tie land,

by unilaterally amending or cancelling its decision; and

- (b) specifying the period in which the rights must be fully exercised.

(2) A Municipality may withdraw a notice warning the owner of its intention at any time before the expiry of the period stated in the notice.

(3) A notice warning the owner of its intention is of no force if a Municipality fails to act in terms of the notice within a period of six months after the expiry of the period in which the rights must be fully exercised.

(4) If an owner fails to fully exercise within the period specified –

- (a) a consent granted in terms of a land use scheme;
- (b) the right to development of land situated outside the area of a land use scheme;
- (c) the right to subdivide a land; or
- (d) the right to consolidate land;
- (e) the right to notarial tie land,

the Municipality may unilaterally cancel or partially cancel the right by amending or cancelling its decision.

(5) A Municipality must notify the Surveyor General and Registrar of Deeds, if it unilaterally cancelled or partially cancelled rights relating to the subdivision, consolidation or notarial tying of properties.

CHAPTER 5 MUNICIPAL PLANNING PROPOSAL BY A MUNICIPALITY

Municipal Planning proposal by a Municipality

73.(1) The Municipality may on its own initiative propose –

- (a) to adopt a land use scheme;
- (b) to amend a land use scheme;
- (c) to repeal a land use scheme; and
- (d) a material amendment to its decision to adopt, amend or repeal a land use scheme,

irrespective of who the affected properties belong to.

(2) The Municipality may propose to the Municipal Planning Approval Authority –

- (a) to use land for a purpose or in a manner that requires an application for its consent in terms of the land use scheme;
- (b) to develop land situated outside the area of a land use scheme;
- (c) to subdivide land;
- (d) to consolidate land;
- (e) to establish a township;
- (f) to notarial tie adjacent land;
- (g) to extend a sectional title scheme by adding land to the common property in terms of section 26 of the Sectional titles Act;
- (h) to remove, amend or suspend a restrictive condition of title or a servitude; and
- (i) to cancel its municipal planning approval,

if it is the owner of the land or in the process of acquiring it.

(3) The Municipality may propose a non-material amendment to the Municipal Planning Approval Authority's decision –

- (a) on a proposal contemplated in subsection (1); and
- (b) on a proposal contemplated in subsection (2), if it is the owner of the land or in the process of acquiring it.

Process for municipal planning approval for a proposal by a Municipality

74. The provisions of Chapter 4 apply to municipal planning approval for a proposal by the Municipality, except –

- (a) a reference to an applicant must be regarded as a reference to the Municipality; and

(b) a period in which the Municipality must conclude a step in the application process is the maximum period prescribed, inclusive of the maximum time by which that period may be extended.

CHAPTER 6 APPEALS

Appeal processes

75.(1) The procedure contemplated in Schedule 10 must be followed for the lodging and hearing of an appeal.

(2) The procedure contemplated in Schedule 11 must be followed for the late lodging of a memorandum of appeal.

(3) The procedure contemplated in Schedule 12 must be followed for –

- (a) an urgent application to confirm that an appeal is invalid; and
- (b) the partial commencement of a decision approving an application for municipal planning approval.

Condonation

76.(1) A person can apply for condonation for –

- (a) failure to lodge a memorandum of appeal within 30 days of being regarded as having been notified of the Municipality's decision; and
- (b) failure to comply with –
 - (i) the procedure for the lodging and hearing of an appeal contemplated in Schedule 10;
 - (ii) the procedure for the late lodging of a memorandum of appeal contemplated in Schedule 11;
 - (iii) the procedure for an urgent application to confirm that an appeal is invalid contemplated in Schedule 12; and
 - (iv) the procedure for an urgent application for the partial commencement of a decision approving an application for municipal planning approval contemplated in Schedule 12.

(2) If all the other parties to an appeal condoned the failure, the Municipal Planning Appeal Authority must grant condonation.

(3) If all the other parties to an appeal did not condone the failure, the Municipal Planning Appeal Authority must consider the following matters when it decides whether to grant or refuse condonation –

- (a) the object of the provisions of item 1 of Schedule 10 relating to the lodging of a memorandum of appeal and item 2 of Schedule 10 relating to the lodging of a responding memorandum;
- (b) whether the Municipality informed the applicant for condonation in writing of his or her rights and obligations;
- (c) the applicant for condonation's explanation for the failure;
- (d) whether it was practical to service a document, if an application for condonation is for condonation for failure to serve a document;
- (e) whether the applicant for condonation is the only appellant, or if there are other appellants that also appealed against the decision of the Municipality on similar grounds; (g) the importance of the appeal;
- (f) prejudice that may be suffered by the applicant, the applicant for condonation, or any other person, including the public;
- (g) the applicant for condonation's interest in the outcome of the appeal;
- (h) the applicant for condonation's prospects of success;
- (i) the degree of lateness;
- (j) avoidance of unnecessary delay in the administration of justice;
- (k) the convenience of the Municipal Planning Appeal Authority; and
- (l) any other relevant factor.

- (4) The Municipal Planning Appeal Authority can decide an application for condonation –
- (a) when it decides an appeal as contemplated in Schedule 10;
 - (b) when it decides an application for the late lodging of an appeal contemplated in Schedule 11;
 - (c) when it decides an urgent application to confirm that an appeal is invalid contemplated in Schedule 12; or
 - (d) when it decides an application for the partial commencement of a decision approving an application for municipal planning approval contemplated in Schedule 12.

Decision of Municipal Planning Appeal Authority

77.(1) The Municipal Planning Appeal Authority must reach a decision on the outcome of an appeal heard by it within fourteen days after the last day of the hearing.

- (2) If the Municipal Planning Appeal Authority is –
- (a) the executive committee of the Municipality;
 - (b) a committee of councillors, if a Municipality does not have an executive committee or executive mayor; or
 - (c) a committee of municipal officials;
- an appeal is decided by a majority of the members who have been designated by the chairperson of the Municipal Planning Appeal Authority to hear the appeal.

(3) The Presiding Officer has a casting vote in the event of an equality of votes.

- (4) The Municipal Planning Appeal Authority may –
- (a) uphold and confirm the decision of the Municipality against which the appeal is brought;
 - (b) alter the decision of the Municipality;
 - (c) set the decision of the Municipality aside, and
 - (i) replace the decision of the Municipality with its own decision; or
 - (ii) remit the matter to the Municipality for reconsideration in the event that a procedural defect occurred; or
 - (d) make an order of costs contemplated in section 83.

(5) The decision on the outcome of the appeal may be given together with any order issued by the Municipal Planning Appeal Authority which is fair and reasonable in the particular circumstances.

(6) The Presiding Officer must sign the decision of the Municipal Planning Appeal Authority and any order made by it.

Reasons for decision of Municipal Planning Appeal Authority

78.(1) The Presiding Officer must prepare written reasons for the decision of the Municipal Planning Appeal Authority within 30 days after the last day of the hearing.

- (2) The reasons for the decision must, among other things –
- (a) summarise the decision of the Municipal Planning Appeal Authority and any order made by it; and
 - (b) in the case of a split decision, summarise the decision and order proposed by the minority and the reasons therefore.

(3) The Presiding Officer must sign the reasons for the Municipal Planning Appeal Authority's decision.

Notification of outcome of appeal

79. The Municipal Planning Appeal Authority Registrar must –

- (a) before the conclusion of an appeal hearing, determine the manner in which the parties must be notified of the decision of the Municipal Planning Appeal Authority; and

(b) notify the parties of the decision of the Municipal Planning Appeal Authority within seven days after the Municipal Planning Appeal Authority handed down its decision, including the reasons for its decision.

Legal effect of decision of Municipal Planning Appeal Authority

80. A decision of the Municipal Planning Appeal Authority is binding on all parties.

Relationship between appeals in terms of this By-law and appeals in terms of section 62 of the Municipal Systems Act

81. No appeal may be lodged in terms of section 62 of the Municipal Systems Act against a decision taken in terms of this By-law.

Proceedings before Municipal Planning Appeal Authority open to public

82.(1) The Presiding Officer may direct that members of the public be excluded from the proceedings, if he or she is satisfied that evidence to be presented at the hearing may –

- (a) cause a person to suffer unfair prejudice or undue hardship; or
- (b) endanger the life or physical well-being of a person.

(2) Any person who fails to comply with a direction issued in terms of this section is guilty of an offence, and on conviction may be sentenced to a fine or to a period of imprisonment not exceeding one year, or to both the fine and the period of imprisonment.

Costs

83.(1) The Municipal Planning Appeal Authority may not make any order in terms of which a party in any appeal proceedings is ordered to pay the costs of any other party in those proceedings in prosecuting or opposing an appeal, except as provided for in Schedules 10, Schedule 11 and Schedule 12.

(2) The Presiding Officer must afford the parties an opportunity to make oral or written representations before an order of costs is made.

Offences in connection with proceedings before Municipal Planning Appeal Authority

84.(1) A person is guilty of an offence, if the person –

- (a) without good reason, and after having been subpoenaed to appear at the proceedings to testify as a witness or to produce a document or other object, fails to attend on the date, time and place specified in the subpoena;
- (b) after having appeared in response to the subpoena, fails to remain in attendance at the venue of those proceedings, until excused by the Presiding Officer;
- (c) without good reason fails to produce a document or object in response to a subpoena;
- (d) wilfully hinders or obstructs the Municipal Planning Appeal Authority in the exercise of its powers;
- (e) disrupts or wilfully interrupts the proceedings;
- (f) insult, disparages or belittles any member of the Municipal Planning Appeal Authority; or
- (g) prejudices or improperly influences the proceedings.

(2) A person is guilty of an offence –

- (a) when obstructing the Municipal Planning Appeal Authority in exercising a power under this By-law by failing, without good reason, to answer, to the best of that person's ability, a lawful question by the Municipal Planning Appeal Authority;
- (b) when obstructing a person who is acting on behalf of the Municipal Planning Appeal Authority; or
- (c) when attempting to exercise a power under this By-law on behalf of the Municipal Planning Appeal Authority, without the necessary authority.

(3) A person convicted of an offence in terms of this section is liable on conviction to a fine not exceeding R10 000.

Municipal Planning Appeal Authority Registrar must keep records relating to appeals

85.(1) The Municipal Planning Appeal Authority must keep a record of its proceedings.

(2) The Municipal Planning Appeal Authority Registrar must keep a register in which the following particulars are recorded in respect of every appeal:

- (a) the date on which the appeal was lodged;
- (b) the reference number assigned to the appeal;
- (c) the names of –
 - (i) every appellant;
 - (ii) the Municipality against whose decision the appeal is brought; and
 - (iii) every other party to the appeal;
- (d) the names of the members of the Municipal Planning Appeal Authority designated by the Chairperson of the Municipal Planning Appeal Authority to hear the appeal; and
- (e) the decision of the Municipal Planning Appeal Authority, including –
 - (i) whether the decision was unanimous or was the decision of the majority of the members; and
 - (ii) the date of the decision.

(3) A copy of the reasons for every decision of the Municipal Planning Appeal Authority and every ruling given by the Chairperson of the Municipal Planning Appeal Authority must be filed by Municipal Planning Appeal Authority Registrar.

(4) The register and records of the Municipal Planning Appeal Authority Registrar must be open for inspection by members of the public during normal office hours.

CHAPTER 7
ENFORCEMENT

Part 1: Offences, penalties and disconnection of services

Offences and penalties in relation to municipal planning approval

86.(1) A person who –

- (a) uses land, subdivides land, consolidates land, establishes a township, notarially tying adjacent land or erect buildings on land, or transforms land or demolishes buildings or structures for that purpose, without municipal planning approval, if municipal planning approval is required in terms of this By-law;
- (b) uses land, subdivides land, consolidates land, establishes a township, notarially tying adjacent land or erect buildings on land, or transforms land or demolishes buildings or structures for that purpose, contrary to a provision of a land use scheme;
- (c) uses land, subdivides land, consolidates land, establishes a township, notarially tying adjacent land or erect buildings on land, or transforms land or demolishes buildings or structures for that purpose, contrary to a restrictive condition of title or servitude;
- (d) uses land, subdivides land, consolidates land, establishes a township, notarially tying adjacent land or erect buildings on land, or transforms land or demolishes buildings or structures for that purpose, contrary to a Municipality's Record of Decision for municipal planning approval as contemplated in section 54;
- (e) fails to disclose that land is not registrable as contemplated in section 62;
- (f) removes a site notice declaring that an activity on land is unlawful as contemplated in section 97;
- (g) offers or pays a reward for –
 - (i) the written support of an organ of state in support of an application for municipal planning approval or a non-material amendment to Municipality's decision;

- (ii) the written support of a Traditional Council for an application for municipal planning approval or a non-material amendment to Municipality's decision; or
 - (iii) the approval or refusal of an application for municipal planning approval or a non-material amendment to Municipality's decision;
- (h) requests or accepts a reward for –
- (i) the written support of an organ of state in support of an application for municipal planning approval or a non-material amendment to Municipality's decision;
 - (ii) the written support of a Traditional Council for an application for municipal planning approval or a non-material amendment to Municipality's decision; or
 - (iii) the approval or refusal of an application for municipal planning approval or a non-material amendment to Municipality's decision,

is guilty of an offence.

(2) An owner who permits land to be used in a manner contemplated in subsection (1)(a) to (d) and who does not cease that use or take reasonable steps to ensure that the use ceases is guilty of an offence.

(3) A person convicted of an offence in terms of this section is liable on conviction to a fine not exceeding R1 000 000 or to imprisonment for a period not exceeding 1 year or to both such a fine and such imprisonment.

(4) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, shall be guilty of a continuing offence and liable on conviction to a term of imprisonment for a period not exceeding three months or to a fine not exceeding R 10 000 or to both a fine and such imprisonment in respect of each day on which he or she so continues or has continued with such conduct.

(5) The levying of rates in accordance with the use of land as contemplated in section 8(1) of the Municipal Property Rates Act does not render the use of the land lawful for the purposes of this By-law.

Additional penalties

87.(1) When the court convicts a person of an offence contemplated in section 86(1), it may –

- (a) at the written request of the Municipality, summarily enquire into and determine the monetary value of any advantage which that person may have gained as a result of that offence; and
- (b) in addition to the fine or imprisonment contemplated in section 86(2), order an award of damages, compensation or a fine not exceeding the monetary value of any advantage which that person may have gained as a result of that offence.

(2) The court may sentence a person who fails to pay a fine imposed under this section to imprisonment for a period not exceeding one year.

Reduction or disconnection of engineering services to prevent the continuation of activity that constitutes an offence

88.(1) The Municipality must obtain a court order contemplated before it reduces or disconnects engineering services to prevent the continuation of an activity that constitutes an offence contemplated section 86(1)(a)-(d).

(2) The Municipality may reduce or disconnect engineering services to prevent the continuation of an activity that constitutes an offence contemplated in section 86(1)(a)-(d) without a court order contemplated, if irreparable harm will be caused by the illegal activity to land, a building, a structure or the environment.

(3) The Municipality must obtain a court order as soon as possible, after it reduced or disconnected engineering services to prevent irreparable harm to land, a building, a structure or the environment as contemplated in subsection (2).

(4) The Municipality may not disconnect engineering services to prevent the continuation of an activity that constitutes an offence contemplated in section 86(1)(a)-(d), if the land is also used for a lawful activity and it is not possible to disconnect the engineering services serving the unlawful activity without also disconnecting the engineering services serving the lawful activity.

(5) The Municipality may disconnect engineering services to prevent the continuation of an activity that constitutes an offence contemplated in section 86(1)(a)-(d), even if payment for the engineering service is not in arrears.

(6) The right of the Municipality to reduce or disconnect water to prevent the continuation of an activity that constitutes an offence contemplated in section 86(1)(a)-(d) must be regarded as a condition under which water services are provided contemplated in section 21(2)(b)(ii) of the Water Services Act, 1997, (Act No. 108 of 1997).

(7) For the purposes of section 21(5) of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), the use of electricity for an activity that constitutes an offence contemplated in section 86(1)(a)-(d) must be regarded as dishonouring by a customer of the agreement with the licensee.

Part 2: Prosecution

Lodging of complaint

89.(1) Any person may request the Municipal Planning Enforcement Officer to investigate an alleged offence contemplated in section 87(1).

(2) A written complaint in which it is alleged that a person is committing an offence as contemplated in section 86(1) must be supported by relevant documentation and other evidence.

(3) The Municipal Planning Enforcement Officer must within 7 days from the date of the lodgement of the complaint –

- (a) acknowledge receipt of the complaint, if it contains the complainant's name, address or contact number; and
- (b) invite the person against whom the complaint is lodged to submit a response within 7 days of being notified of the complaint.

(4) The Municipal Planning Enforcement Officer must complete an investigation into the alleged offence contemplated in section 86(1) within 60 days from the date that the complaint was lodged.

(5) The Municipal Planning Enforcement Officer must inform the complainant of the outcome of the investigation, if the complaint contained the complainant's name, address or contact number.

Powers of Municipal Planning Enforcement Officer

90.(1) A Municipal Planning Enforcement Officer may, with the permission of the occupier or owner of the land, and during the municipality's normal business hours, enter upon the land or enter a building for the purposes of ensuring compliance with –

- (a) this By-law;
- (b) the land use scheme;
- (c) a Record of Decision contemplated in section 55 or Municipal Planning Appeal Authority's decision contemplated in section 79; or
- (d) a restrictive condition of title or servitude that may be removed, amended or altered in terms of this By-law.

(2) A Municipal Planning Enforcement Officer may enter upon land or enter a building for the purposes of subsection (1) outside its normal business hours –

- (a) with the permission of the occupier or owner of the land; or

(b) if entering upon the land or entering a building outside the municipality's normal business hours is essential.

(3) A Municipal Planning Enforcement Officer may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

(4) A person who controls or manages land must provide the facilities that are reasonably required by the Municipal Planning Enforcement Officer to enable the officer to perform his or her functions effectively and safely.

(5) A person who wilfully obstructs a Municipal Planning Enforcement Officer, or any person lawfully accompanying such officer, from entering upon land or entering a building, is guilty of an offence, and is liable on conviction to a fine not exceeding R10 000.

(6) A Municipal Planning Enforcement Officer must leave the land or building as effectively secured against trespassers as he or she found it, if the owner or occupier is not present.

(7) A Municipal Planning Enforcement Officer may question any person on that land who, in his or her opinion, may be able to furnish information on a matter to which this By-law relates.

(8) A Municipal Planning Enforcement Officer may inspect and take a picture or video footage –

- (a) of any article, substance, or machinery which is or was on the land,
- (b) of any work performed on the land or any condition prevalent on the land.

(9) A Municipal Planning Enforcement Officer may seize any document, record, article, substance, or machinery which, in his or her opinion, is necessary as evidence at the trial of any person charged with an offence under this By-law or the common law.

(10) A Municipal Planning Enforcement Officer may grant a user of a document or record the right to make copies of the book or record before its seizure.

(11) A Municipal Planning Enforcement Officer must issue a receipt to the owner or person in control of document, record, article, substance, or machinery which he or she has seized.

(12) A Municipal Planning Enforcement Officer may direct any person to appear before him or her at such time and place as may be agreed upon and question the person.

Warrant of entry for enforcement purposes

91.(1) A magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or enter the building if–

- (a) the prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
- (b) the purpose of the inspection would be frustrated by the prior knowledge thereof.

(2) A magistrate may only issue a warrant if the magistrate is satisfied that there are reasonable grounds for suspecting that any activity that is contrary to the provisions of this By-law or the Municipality's land use scheme, has been or is about to be carried out on that land or building.

(3) A warrant authorises the Municipality to enter upon the land or to enter the building on one occasion only, and that entry must occur –

- (a) within one month of the date on which the warrant was issued; and
- (b) at a reasonable hour, except where the warrant was issued on the grounds of urgency.

Observance of confidentiality pertaining to entry for enforcement purposes

92.(1) A Municipal Planning Enforcement Officer who has entered upon land or entered a building for the purposes of ensuring compliance with this By-law or the Municipality's land use scheme, and who has gained knowledge of any information or matter relating to another person's private or business affairs in the process, must treat that information or matter as confidential and may not disclose it to any other person.

(2) A person is guilty of an offence and liable on conviction to a fine or to a period of imprisonment not exceeding one year, or both, if that person subsequently discloses to any other person trade secrets or any privileged information obtained whilst entering upon land or entering a building for the purposes of ensuring compliance with this By-law or the Municipality's land use scheme, except –

- (a) if the disclosure was made for the purposes of enforcing the Act or the Municipality's land use scheme; or
- (b) if the disclosure was ordered by a competent court or is required under any law.

Presumption that member of the managing body of a corporate body or partner in a partnership committed activity that constitutes an offence

93. A person is personally guilty of an offence contemplated in this By-law if –

- (a) the offence was committed by –
 - (i) a corporate body established in terms of any law; or
 - (ii) a partnership;
- (b) the person was a member of the board, executive committee, close corporation or other managing body of the corporate body or the partnership at the time that the offence was committed; and
- (c) the person failed to take reasonable steps to prevent the offence.

Failure by land owner's association, body corporate or share block company to execute obligation in terms of condition of approval

94. If a land owner's association, a body corporate established in terms of section 36(1) of the Sectional Titles Act, or a share block company contemplated in section 1 of the Share Blocks Control Act, fails to execute an obligation imposed on it in terms of a condition of approval contemplated in section 54(6) or by the Municipal Planning Appeal Authority, the Municipality may rectify the failure and recover the cost thereof from the members of the land owners association, body corporate or shareholders of the share block company.

Relief by court

95.(1) If the Municipality has instituted proceedings against a person for an offence contemplated in section 86(1) it may simultaneously apply to a court for appropriate relief.

(2) A court may grant any appropriate relief, including –

- (a) a declaration of rights;
- (b) an order or an interdict preventing a person from –
 - (i) using land, subdividing land, consolidating land, establishing a township, notarially tying adjacent land or erecting buildings on land without municipal planning approval, if municipal planning approval is required in terms of this By-law;
 - (ii) using land, subdividing land, consolidating land, establishing a township, notarially tying adjacent land or erecting buildings on land contrary to a provision of a land use scheme;
 - (iii) using land, subdividing land, consolidating land, establishing a township, notarially tying adjacent land or erecting buildings on land contrary to a restrictive condition of title or servitude; or
 - (iv) using land, subdividing land, consolidating land, establishing a township, notarially tying adjacent land or erecting buildings on land contrary to a Municipality's decision for municipal planning approval as contemplated in section 54 or the Municipal Planning Appeal Authority's decision contemplated in section 78; or
 - (v) failing to disclose that land is not registrable as contemplated in section 62;

- (c) an order to reduce or disconnect engineering services;
- (d) an order to demolish, remove or alter any building, structure or work illegally erected or constructed;
- (e) an order to rehabilitate the land concerned; or
- (f) any other appropriate preventative or remedial measure.

Relationship between remedies provided for in this By-law and other statutory and common law remedies

96. The remedies provided for in this By-law are in addition to any other statutory or common law criminal or civil remedies that a Municipality or a person may have at their disposal.

Display of notice on land that activity is unlawful

97. The Municipality must display a notice on the land, if it obtained a temporary or final interdict to prevent use of land or erection buildings contrary to this By-law, a land use scheme or a restrictive condition of title or servitude registered against the land, stating that –

- (a) the activity identified in the notice is unlawful;
- (b) a temporary or final interdict has been obtained to prevent the activity;
- (c) that any person who continues with the activity will be guilty of an offence; and
- (d) that any person who continues with the activity is liable on conviction to a fine not exceeding R1 000 000 or to imprisonment for a period not exceeding 1 year or to both such a fine and such imprisonment.

Persons who may approach High Court for enforcement of rights granted by Act, a land use scheme adopted in terms of this By-law or municipal planning approval in terms of this By-law

98.(1) A person who alleges that a right granted by this By-law, a land use scheme adopted in terms of this By-law, or an approval in terms of this By-law has been infringed or is threatened by another person or an organ of state, may approach the High Court for relief, in the event that the person is acting –

- (a) in his or her own interest;
- (b) on behalf of another person who cannot act in his or her own name;
- (c) as a member of, or in the interest of, a group or category of persons;
- (d) on behalf of an association and in the interest of its members; or
- (e) in the public interest.

Part 3: Subsequent application for municipal planning approval

Subsequent application for municipal planning approval

99.(1) A person may make an application for municipal planning approval contemplated in section 46, despite –

- (a) having committed an offence contemplated in section 86(1); or
- (b) a court order contemplated in section 95(2).

(2) If a Municipality approves a subsequent application for municipal planning approval, it must impose a condition –

- (a) that the applicant must, within 30 days after notice of approval was served, pay to the Municipality as a civil penalty an amount, not less than 5% and not more than 100%, of the value of any building, construction, engineering, mining or other operation, illegally performed to which the subsequent application for municipal planning approval relates; and
- (b) that the approval lapses if, upon expiry of the period referred to in paragraph (a), the amount of the civil penalty has not been paid in full.

(3) The Municipality may waive the civil penalty for failing to obtain its prior approval in respect of a public benefit organisation registered in terms of section 30 of the Income Tax Act, 1962 (Act No. 58 of 1962).

Part 4: Offence and misconduct by official approving the use of land or erection buildings or contrary to the Act, a land use scheme or a restrictive condition of title or servitude registered against land

Offence and misconduct by official employed by organ of state who approves the erection of buildings or use of land without prior approval in terms of the Act

100.(1) An official is guilty of an offence and misconduct –

- (a) when authorising the use of land, subdivision of land, consolidation of land, the establishment of a township, notarially tying adjacent land or erection of buildings on land without municipal planning approval, if municipal planning approval is required in terms of this By-law;
- (b) when authorising the use of land, subdivision of land, consolidation of land, the establishment of a township, notarially tying adjacent land or erection of buildings on land contrary to a provision of a land use scheme;
- (c) when authorising the use of land, subdivision of land, consolidation of land, the establishment of a township, notarially tying adjacent land or erection of buildings on land contrary to a Municipality's decision for municipal planning approval as contemplated in section 54 or Municipal Planning Appeal Authority's decision contemplated in section 77;
- (d) when authorising the use of land, subdivision of land, consolidation of land, the establishment of a township, notarially tying adjacent land or erection of buildings on land contrary to a restrictive condition of title or servitude; or
- (e) if the official certified that a condition of approval for municipal planning approval has been complied with, when it has not.

(2) An official is guilty of an offence in terms of this section, irrespective of whether or not the official was aware that prior approval is required for the erection of buildings in terms of this By-law.

(3) An official who is guilty of an offence in terms of section is liable on conviction to a fine not exceeding R1 00 000 or to imprisonment for a period not exceeding 1 year or to both such a fine and such imprisonment.

(4) An official who is guilty of misconduct under this section may be disciplined in accordance with the disciplinary code of the person's employer or the official's profession.

(5) It is a defence for an official charged in terms of this section if it can be proven that the official acted in an emergency to save human life, property or the environment.

Offence by owner for failure to lodge diagrams, plans and documents with the Surveyor-General after cancellation or partial cancellation of municipal planning approval for subdivision or consolidation of land or township establishment

101.(1) An owner is guilty of an offence, if the owner fails to ensure that diagrams, plans and other documents that the Surveyor-General required for the cancellation or partial cancellation of an approved diagram or general plan for the subdivision or consolidation of land or township establishment are lodged with the Surveyor-General, within six months after the Municipality cancelled or partial cancelled its municipal planning approval.

(2) An owner who is guilty of an offence in terms of this section is liable on conviction to a fine not exceeding R1 000 000 to imprisonment for a period not exceeding 1 year or to both such a fine and such imprisonment.

Offence by owner for failure to lodge deeds, plans and documents with Registrar of Deeds after cancellation or partial cancellation of municipal planning approval for subdivision or consolidation of land or township establishment

102.(1) An owner is guilty of an offence, if the owner fails to ensure that all deeds, plans and other documents that the Registrar of Deeds required to update the records of the Registrar of Deeds that are affected by the cancellation

or partial cancellation of a municipal planning approval for the subdivision or consolidation of land or township establishment are lodged with the Registrar of Deeds, within three months after the Surveyor-General updated the records of the Office of the Surveyor-General to reflect the partial cancellation or cancellation of municipal planning approval.

(2) An owner who is guilty of an offence in terms of this section is liable on conviction to a fine not exceeding R1 000 000 or to imprisonment for a period not exceeding 1 year or to both such a fine and such imprisonment.

CHAPTER 8 COMPENSATION

Compensation arising from a proposal by a Municipality to zone a privately-owned land for a purpose which makes it impossible to develop any part thereof

103.(1) If the Municipality zones land on its own accord for a purpose that makes it impossible for the land owner to develop any part thereof, the land owner may claim compensation from the Municipality –

- (a) within three years after the effective date of the Municipality's decision; and
- (b) to the extent to which the owner has not already received compensation for the loss of the use of the land.

(2) The Municipality may amend a provision of a land use scheme which prevents an owner from developing any part of his or her land, within six months after the owner has lodged a claim for compensation, in order to avoid being liable for payment of compensation.

(3) When the Municipality has compensated an owner of land under this section, it must take transfer of the land concerned.

Compensation arising from removal, amendment or suspension of a condition of title

104.(1) A person who has suffered any loss or damage, or whose land or real right in land has been adversely affected as a result of the removal, amendment or alteration of a condition of title in terms of this By-law, may claim compensation from the person who, at the time of the removal, amendment or suspension of the condition of title, was the owner of the other land that was burdened by the condition of title.

(2) A claim for compensation is limited to the extent to which the claimant has not already received compensation, and must be instituted within three years after the date of the alteration, suspension or deletion.

Compensation arising from permanent closure of municipal road or public place by Municipality

105.(1) Any owner of land, who has suffered a loss or damage due to the closure of a municipal road or a public place, may claim compensation from a Municipality.

(2) A claim for compensation –

- (a) is limited to the extent to which the claimant has not already received compensation; and
- (b) must be instituted within a period of three years after the date of the closure of the municipal road or public place.

Amount of compensation

106.(1) The amount of compensation must be agreed upon between –

- (a) the claimant and the owner of the land for the benefit of which the restrictive condition of title or servitude was altered, suspended or deleted; or
- (b) the claimant and the Municipality for any other claim in terms of this Chapter.

(2) In the event that the parties fail to conclude an agreement for compensation within one year, a court may determine the amount thereof.

CHAPTER 9 SERVICE OF DOCUMENTS

Service of documents

107.(1) Any document that needs to be served, on any person or body, other than the Municipal Planning Registrar and Municipal Planning Appeal Authority Registrar, may be served –

- (a) by delivering the document by hand to the person;
- (b) by delivering the document by hand to a person who apparently is over the age of sixteen years and apparently resides or works at the physical address of the person;
- (c) by successful electronic transmission of the document to the e-mail address or telefax number of the person;
- (d) by sending the document by registered post or signature on delivery mail to the person's postal address; or
- (e) by affixing a copy of the document on the outer or principal door of the recipient's residence or place of business.

(2) Service of a document is not invalid by virtue of an intended recipient not receiving a document, if –

- (a) the document was hand delivered to a person who apparently is over the age of sixteen years at a valid physical address of the intended recipient;
- (b) the document was mailed to a valid e-mail address or transmitted to a valid telefax number of the intended recipient;
- (c) the document was posted by registered mail or signature on delivery mail to a valid postal address of the intended recipient; or
- (d) a copy of the document was affixed on the outer or principal door of at a valid residence or place of business of the recipient.

(3) A notice to anyone who is a signatory to a joint petition or group representation, may be given to the –

- (a) authorised representative of the signatories if the petition or representation is lodged by a person claiming to be the authorised representative; or
- (b) person whose name appears first on the document, if no person claims to be the authorised representative of the signatories.

(4) A notice to a signatory to a joint petition or group representation constitutes notice to each person named in the joint petition or group representation.

Service of documents on Municipal Planning Registrar

108. Any document that needs to be served on the Municipal Planning Registrar may be served –

- (a) by delivering the document by hand to the Municipal Planning Registrar or a Deputy Municipal Planning Registrar;
- (b) by successful electronic transmission of the document –
 - (i) to the e-mail address or telefax number of the Municipal Planning Registrar; or
 - (ii) to the e-mail address or telefax number of the Municipal Manager; or
- (c) by sending the document by registered post or signature on delivery mail –
 - (i) to the postal address of the Municipal Planning Registrar; or
 - (ii) to the postal address of the Municipal Manager.

Service of documents on Municipal Planning Appeal Authority Registrar

- 109.** Any document that needs to be served on the Municipal Planning Appeal Authority Registrar must be served –
- (a) by delivering the document by hand to the Municipal Planning Appeal Authority Registrar or a Deputy Municipal Planning Appeal Tribunal Registrar; or
 - (b) by successful electronic transmission of the document –
 - (i) to the e-mail address or telefax number of the Municipal Planning Appeal Authority Registrar; or
 - (ii) to the e-mail address or telefax number of the Municipal Manager.

Date of service of document

- 110.**(1) If a document has been served by delivering the document by hand to the addressee the date on which the document was delivered must be regarded as the date of service of the document.
- (2) If a document has been served on a person who apparently is over the age of sixteen years, service must be regarded as having been effected within 14 days of delivery.
- (3) If a document has been served by successful electronic transmission of the document to the e-mail address or telefax number of the addressee, the date on which the document was successfully transmitted must be regarded as the date of service of the document.
- (4) If a document has been served by registered post or signature on delivery mail, service must be regarded as having been effected within 21 days of posting, irrespective of when or if the mail has been collected.

CHAPTER 10

DELEGATIONS AND AGENCY AGREEMENTS

Agency agreement between municipalities for performance of functions in terms of Act

- 111.**(1) The Municipality may, after it has applied the criteria contemplated in section 78 of the Municipal Systems Act, enter into an agreement with one or more other municipalities, including the District Municipality, in terms of which the latter is to exercise, as the agent of the Municipality, any of its powers in terms of this By-law.
- (2) An agency agreement must clearly specify the powers assigned to the agent municipality and the terms and conditions subject to which the powers must be exercised.
- (3) A power exercised by an agent municipality in terms of an agency agreement must be regarded as a power exercised by the Municipality.
- (4) The Municipal Manager must keep copies of agency agreements between municipalities for performance of functions in terms of this By-law.

Agency agreement with traditional council

- 112.**(1) The Municipality may enter into an agreement with a traditional council in terms of which the latter is to exercise, as the agent of the Municipality, any of its powers in terms of this By-law, except –
- (a) a power which requires the person exercising it to have a specific qualification and registration with a profession's controlling body; and
 - (b) the power to decide an application for municipal planning approval.
- (2) An agency agreement must clearly specify the powers assigned to the traditional council and the terms and conditions subject to which the powers must be exercised.

(3) A power exercised by a traditional council in terms of an agency agreement must be regarded as a power exercised by the Municipality.

(4) The Municipal Manager must keep copies of agency agreements between the Municipality and a traditional council for performance of functions in terms of this By-law.

Delegations by Municipality

113.(1) The Municipal Council may not delegate the following powers –

(a) the power to decide an application for municipal planning approval for –

(i) the adoption of a land use scheme;

(ii) an amendment to a land use scheme that requires an amendment to the land use scheme clauses;

(iii) the repeal of a land use scheme; or

(iv) a material change to the Municipal Council's decision to adopt a land use scheme or to amend the land use scheme clauses.

(b) the appointment of members of the Municipal Planning Tribunal;

(c) the determination of the conditions subject to which a member of the Municipal Planning Tribunal holds office;

(d) the removal of a member of the Municipal Planning Tribunal;

(e) the designation of a Chairperson and Deputy Chairperson of the Municipal Planning Tribunal; and

(f) the designation of a Chairperson, if the Chairperson and Deputy Chairperson of the Municipal Planning Tribunal are unable to act.

(2) A power conferred on –

(a) a Municipal Planning Tribunal;

(b) Chairperson of a Municipal Planning Tribunal;

(c) Presiding Officer appointed by the Chairperson of a Municipal Planning Tribunal;

(d) a member of a Municipal Planning Tribunal who is a Registered Planner member, attorney or advocate;

(f) Tribunal Registrar; or

(g) Municipal Planning Authorised Officer;

may not be delegated, unless the Act provides expressly otherwise.

(3) A Municipality may delegate any power conferred on it in terms of this By-law, other than the powers contemplated in subsections (1) and (2) –

(a) to a committee of the Municipality established in terms of sections 60(1)(a), 61(2), 71 or 79(1)(a) of the Municipal Structures Act; or

(b) to an official employed by the Municipality.

(4) A power or duty may –

(a) be delegated to more than one functionary;

(b) be delegated to a named person or the holder of a specific office or position;

(c) be delegated subject to any conditions or limitations that the Municipality considers necessary; and

(d) at any time be withdrawn or amended in writing by the Municipal Council.

(5) A delegation does not –

(a) prevent the Municipal Council from exercising that power or performing the duty; or

(b) relieve the Municipal Council from being accountable for the exercise of the power or the performance of the duty.

(6) An act performed by a delegated authority has the same force as if it had been done by the Municipal Council.

(7) An act performed by a delegated authority, which was done within the scope of the delegation, remains in force and is not invalidated by reason of –

- (a) the Municipal Council electing afterwards to exercise that power or performing the function or duty; or
- (b) a later amendment or withdrawal of a delegation.

(8) A delegation in terms of this section –

- (a) must be in writing;
- (b) must include the following details –
 - (i) the matter being delegated; and
 - (ii) the conditions subject to which the delegation is made.

(9) The Municipal Council may at any time amend the terms of a delegation, or revoke a delegation made in terms of this section.

(10) A Municipal Manager must keep an updated record of all delegations in terms of this By-law.

(11) Any act done in terms of a power conferred on the Municipality in terms of this By-law that is exercised without the necessary authority is voidable.

CHAPTER 11

KEEPING OF RECORDS AND ACCESS TO INFORMATION

Record of a land use scheme

114. The Municipality's land use scheme clauses and map must be updated on 1 January and 1 July each year to show amendments to the land use scheme that have been made during the preceding six months.

Record of applications for municipal planning approval

115.(1) The Municipality must keep a register of all applications for municipal planning approval.

(2) The Municipality must keep copies of all documents to which the public has a right of access contemplated section 119 and 121.

Notice of approval of sectional title plan, diagram and general plan

116. The Surveyor-General must notify the Municipality in writing within 14 days of the approval by the Surveyor-General of the following plans –

- (a) a sectional plan in terms of section 7(4) of the Sectional Titles Act;
- (b) a sectional plan for the subdivision or consolidation of a section in terms of section 21(3) of the Sectional Titles Act;
- (c) a sectional plan for the extension of a section in terms of section 24(4) of the Sectional Titles Act;
- (d) a sectional plan for the extension of a scheme by the addition of sections and exclusive areas in terms of section 25(8) of the Sectional Titles Act;
- (e) a diagram or general plan approved in terms of section 6(1)(b) of the Land Survey Act;
- (f) a correction of a registered diagram that affects the extent of land in terms of section 36 of the Land Survey Act; or
- (g) an alteration or amendment of a general plan that affects the extent land in terms of section 37 of the Land Survey Act.

Notice of allocation of land in terms of the customary law

117.(1) A traditional council must notify a Municipality in writing within 14 days of –

- (a) any allocation of land in terms of customary law; and
- (b) any re-allocation of land in terms of customary law.

(2) A traditional council must provide a Municipality with the contact details of the person to whom the land has been allocated or re-allocated.

Access to information held by Municipal Planning Registrar

118. The following records that are held by the Municipal Planning Registrar must be regarded as records that are automatically available as contemplated in section 15 of the Promotion of Access to Information Act –

- (a) the land use scheme contemplated in section 40(1);
- (b) an application for municipal planning approval contemplated in section 46 or municipal planning proposal by a Municipality contemplated in section 73;
- (c) proof that an applicant did give notice of an application for municipal planning approval contemplated in item 11(1) of Schedule 4;
- (d) comments received by the Municipality in response to an invitation to comment on an application for municipal planning approval contemplated in item 11(1) of Schedule 4;
- (e) the Municipal Planning Registrar's assessment of compliance of an application for municipal planning approval with the application process contemplated in item 13(2)(d) of Schedule 4;
- (f) the Registered Planner's assessment and recommendation on an application for municipal planning approval contemplated in item 16(2) of Schedule 4;
- (g) the Municipal Planning Tribunal's recommendation on an application for municipal planning approval, if the application is an application–
 - (i) for the adoption of a land use scheme;
 - (ii) for an amendment to a land use scheme that requires an amendment to the land use scheme clauses;
 - (iii) for the repeal of a land use scheme; or
 - (iv) for a material change to a Municipal Council's decision to adopt a land use scheme or to amend the land use scheme clauses,contemplated in item 18 of Schedule 4;
- (h) the Municipal Planning Approval Authority's Record of Decision on an application for municipal planning contemplated in section 55; and
- (i) an applicant's waiver of the right to appeal against the Municipal Planning Approval Authority's decision on an application for municipal planning contemplated in section 58(a)(iii).

Access to information held by Municipal Planning Appeal Authority Registrar

119. The following records that are held by the Municipal Planning Appeal Authority Registrar must be regarded as records that are automatically available as contemplated in section 15 of the Promotion of Access to Information Act –

- (a) a memorandum of appeal contemplated in item 1(1) of Schedule 10;
- (b) a responding memorandum contemplated in item 2(1) of Schedule 10;
- (c) a withdrawal of an appeal contemplated in item 4(1) of Schedule 10;
- (d) a withdrawal of a opposition to an appeal contemplated in item 4(2) of Schedule 10;
- (e) a subpoena requesting a person to testify or produce a document at a site inspection or an appeal hearing contemplated in item 6(1) of Schedule 10;
- (f) a subpoena requesting a person to lodge a document with the Municipal Planning Appeal Authority Registrar contemplated in item 7(1) of Schedule 10;
- (g) the collated appeal documents contemplated in item 9(3) of Schedule 10;
- (h) a notice of a site inspection contemplated in item 12(4) of Schedule 10;
- (i) a notice of an appeal hearing contemplated in item 13(1) of Schedule 10;

- (j) an application for the late lodging of a memorandum of appeal contemplated in item 1 of Schedule 11;
- (k) opposition to a late appeal contemplated in item 2 of Schedule 11;
- (l) a decision on an application for the late lodging of a memorandum of appeal contemplated in item 4 of Schedule 11;
- (m) an urgent application to confirm that an appeal is invalid or for the partial commencement of a decision approving an application for municipal planning approval contemplated in item 1 of Schedule 12;
- (n) opposition to an urgent application to confirm that an appeal is invalid or for the partial commencement of a decision approving an application for municipal planning approval contemplated in item 2 of Schedule 12;
- (o) a decision on an urgent application to confirm that an appeal is invalid or for the partial commencement of a decision approving an application for municipal planning approval contemplated in item 5 of Schedule 12;
- (p) a decision of the Municipal Planning Appeal Authority contemplated in section 77(4);
- (q) written reasons for a decision of the Municipal Planning Appeal Authority contemplated in section 78(1); and
- (r) a register of appeals contemplated in section 85(2).

Access to information held by Municipal Manager

120.(1) The following records that are held by a Municipal Manager must be regarded as records that are automatically available as contemplated in section 15 of the Promotion of Access to Information Act –

- (a) a register of the interests of members of the Municipal Planning Approval Authority, Municipal Planning Appeal Authority and the Municipal Planning Enforcement Authority contemplated in section 33(3);
- (b) an agency agreement for performance of functions in terms of this By-law in terms of section 111(4); and
- (c) an updated record of all delegations in terms of this By-law contemplated in section 113(10).

CHAPTER 12 GENERAL PROVISIONS

Declaration of land as land for the settlement in an unstructured manner by a traditional community or indigent households

121.(1) The Municipality may declare land as land for the settlement in an unstructured manner by a traditional community or indigent households, if –

- (a) the land is occupied or earmarked for occupation by three or more households;
- (b) the households are settled on the land or will be settled on it in an unstructured manner;
- (c) the majority of the households that are settled on the land or will be settled on it will not be able to afford to comply with the application process contemplated in Schedule 4; and
- (d) the Municipality has designated the land in its Spatial Development Framework as land to which shortened land use development procedures apply as contemplated in section 21(l)(ii) of the Spatial Planning and Land Use Management Act.

(2) The Municipality must map land declared as land for the settlement in an unstructured manner by a traditional community or indigent households.

(3) The Municipality must publish on its website –

- (a) its decision declare land as land for the settlement in an unstructured manner by a traditional community or indigent households; and
- (b) mapping showing land that it has declared as land for the settlement in an unstructured manner by a traditional community or indigent households.

Calculation of number of days

122.(1) If this By-law prescribes a period for performing an action, the number of days must be calculated by excluding the first day, and by including the last day, unless the last day happens to fall on a Saturday, Sunday or

public holiday, in which case the first work day immediately following the Saturday, Sunday or public must be regarded as the last day of the period.

(2) Days that a Municipality is officially in recess must be excluded from the period in which a Municipality must perform an action in terms of this By-law, if –

- (a) a Municipality did not delegate the power to perform the action; and
- (b) the action must be performed in 120 days or less.

Effect of change of ownership of land to which an application for municipal planning approval relates

123.(1) If a land, which is the subject of an application for municipal planning approval, is transferred to a new owner, the new owner may continue with the application as the legal successor-in-title of the previous owner.

(2) A new owner must inform the Municipality in writing that he or she wishes to continue with an application for municipal planning approval and provide the Municipality with his or her contact details.

Ceding of rights associated with a person who commented on an application for municipal planning approval to new land owner

124.(1) An owner who commented on an application for municipal planning approval by the closing date stated in the invitation contemplated in item 2(f) of Schedule 5 may, in writing, cede the rights conferred on a person who commented on an application to the new owner of his or her land.

(2) The new owner must provide the applicant and Municipality with a copy of the agreement to cede the rights and his or her contact details.

Application for leave to intervene in application for municipal planning approval or appeal

125.(1) An person may apply in writing for leave to intervene in an existing application for municipal planning approval before the Municipal Planning Approval Authority or the Municipal Planning Appeal Authority.

(2) The Municipal Planning Approval Authority or the Municipal Planning Appeal Authority must consider the following matters when it decides an application for leave to intervene –

- (a) whether public consultation was required for the application for municipal planning approval;
- (b) whether the applicant for intervention was given notice of the application for municipal planning approval;
- (c) the applicant for intervention's motivation for the request to intervene;
- (d) the written consent of all the other parties to the application for municipal planning approval or appeal to agree to the party intervening, if they did consent to the party intervening;
- (e) prejudice that may be suffered by the applicant or any other person, including the public;
- (f) the applicant for intervention's prospects of success;
- (g) avoidance of unnecessary delay in the administration of justice;
- (h) the convenience of the Municipal Planning Approval Authority or Municipal Planning Appeal Authority;
- (i) if a party applies to intervene in an application for municipal planning approval, whether the applicant for intervention is the only person who wishes to comment on the application, or if there are other persons who also made similar comments on the application;
- (j) if a party applies to intervene in an appeal –
 - (i) whether the applicant for intervention is the only person who wishes to appeal against the decision of the Municipal Planning Approval Authority, or if there are other appellants that also appealed against the decision on similar grounds;
 - (ii) the importance of the appeal;
 - (iii) the applicant for intervention's interest in the outcome of the appeal; and
- (k) any other relevant factor.

(3) The Municipal Planning Appeal Authority or Municipal Planning Appeal Authority must –
(a) approve; or
(b) refuse,
an application for leave to intervene.

(4) The Municipal Planning Appeal Authority or the Municipal Planning Appeal Authority may limit a person who applied for intervention's participation to the issues in which the person's interest has been established in its decision to grant leave to intervene.

(5) If a person was granted leave to intervene in an application for municipal planning approval, the person must submit written comment on the application to the Municipal Planning Approval Authority in the manner and by the date determined by the Municipality in its decision to grant leave to intervene.

(6) If a person was granted leave to intervene in an appeal, the person must participate in the appeal proceedings in the manner determined by the Municipal Planning Appeal Authority in its decision to grant leave to intervene.

(7) A person who was granted leave to intervene in an application for municipal planning approval must be regarded as a person who commented on the application when the public was consulted, irrespective of whether or not public consultation was required for the application.

Transitional arrangements and savings

126. Schedule 13 applies to the transition from the old legislative order to the new legislative order.

Short title

127. This By-law is called the Emadlangeni Municipality Planning and Land Use Management By-law, 2016.

SCHEDULE 1

MATTERS THAT MUST BE ADDRESSED IN AN AGREEMENT TO ESTABLISH A JOINT MUNICIPAL PLANNING TRIBUNAL

*(Section 8(5))***Matters that must be addressed in an agreement to establish a Joint Municipal Planning Tribunal**

1. An agreement between the Municipal Council and any other municipalities to establish a Joint Municipal Planning Tribunal should at least provide for the following –

- (a) the names of the participating municipalities;
- (b) the rights, obligations and responsibilities of each of the participating municipalities;
- (c) how the Joint Municipal Planning Tribunal will be funded;
- (d) how Municipal Planning Registrars and Deputy Municipal Planning Registrars will be appointed and function;
- (e) how the following functionaries will be elected –
 - (i) the Municipal Planning Tribunal members;
 - (ii) the Chairperson of the Municipal Planning Tribunal;
 - (iii) the Deputy Chairperson of the Municipal Planning Tribunal;
- (f) how the participating municipalities will publish legal notices, including –
 - (i) the notice calling for the persons to serve on the Joint Municipal Planning Tribunal;
 - (ii) the notice confirming the appointment of the members of the Joint Municipal Planning Tribunal;
- (g) how and where records will be kept, including –
 - (i) a register of applications for municipal planning approval decided by the Joint Municipal Planning Tribunal in terms of section 115(1);
 - (ii) documents to which the public has a right of access in terms of sections 119 to 121; and
 - (iii) a register of interests disclosed by members of the Joint Municipal Planning Tribunal, Municipal Planning Registrars and Deputy Municipal Planning Registrars in terms of section 33(3);
- (h) how application fees will be determined and managed;
- (i) where applications for municipal planning approval must be lodged;
- (j) how a participating Municipality will be informed that an appeal against a decision for a development in its area has been lodged with the Municipal Planning Appeal Authority Registrar;
- (k) the administrative support and office accommodation for the Joint Municipal Planning Tribunal, if necessary; and
- (l) the legal implications of the withdrawal of a participating Municipality from the Joint Municipal Planning Tribunal.

SCHEDULE 2
CATEGORISATION OF APPLICATIONS FOR DECISION BY THE MUNICIPAL PLANNING APPROVAL
AUTHORITY
(Section 22(1))

Applications for municipal planning approval that may be decided by a Municipal Planning Authorised Officer

1.(1) A Municipal Planning Authorised Officer may decide the following applications for municipal planning approval –

- (a) the granting of consent in terms of land use scheme for the relaxation of a development control, including spaces around buildings;
- (b) the subdivision and consolidation of land –
 - (i) that does not involve a change of land use; and
 - (ii) of which the end result is the creation of no more than two new properties, excluding properties used exclusively for the accommodation of roads or other engineering services;
- (c) the subdivision and consolidation of land exclusively for the purpose of accommodating engineering services;
- (d) the removal, amendment or suspension of a restrictive condition of title –
 - (i) that has been imposed in terms of this By-law or a repealed municipal planning law; or
 - (ii) that has not been imposed in terms of these By-Laws or a repealed municipal planning law, but is accompanied by the written approval of the person or entity in whose favour the condition is registered;
- (e) an amendment to an application in terms of paragraphs (a) to (d), prior to the approval thereof by the Municipal Planning Authorised Officer;
- (f) a correction to a decision of a Municipal Planning Authorised Officer on an application in terms of paragraphs (a) to (d) to correct an error in the wording of the decision, correct a spelling error, update land description, or update a reference to a law, person, institution, place name or street name; and
- (g) a non-material amendment to a Municipal Planning Authorised Officer's decision on an application in terms of paragraphs (a) to (d).

Applications for municipal planning approval that must be decided by the Chairperson of a Municipal Planning Tribunal or a tribunal member designated by the Chairperson

2.(1) The Chairperson of a Municipal Planning Tribunal must decide an application for municipal planning approval for –

- (a) an amendment to an application in terms of paragraphs (a) to (l) of item 3, prior to the approval thereof by the Municipal Planning Tribunal;
- (b) a correction to a decision of a Municipal Planning Tribunal on an application in terms of paragraphs (a) to (l) of Item 3 to correct an error in the wording of the decision, correct a spelling error, update land description, or update a reference to a law, person, institution, place name or street name.

(2) The Chairperson of a Municipal Planning Tribunal may designate another member of the Tribunal to decide an application for municipal planning approval for a correction to a decision of a Municipal Planning Tribunal on an application in terms of paragraphs (a) to (l) of Item 3 to correct an error in the wording of the decision, correct a spelling error, update land description, or update a reference to a law, person, institution, place name or street name.

Applications for municipal planning approval that must be decided by the Municipal Planning Tribunal

3. The Municipal Planning Tribunal must decide the following applications for municipal planning approval –

- (a) the zoning or rezoning of land in accordance with an existing zone;
- (b) the granting of consent in terms of land use scheme for land use;
- (c) approval for a development situated outside the area of land use scheme;

- (d) the subdivision and consolidation of land –
 - (i) that involves a change of land use; or
 - (ii) of which the end result is the creation of more than two new properties, excluding properties used exclusively for the accommodation of roads or other engineering services;
- (e) township establishment;
- (f) the notarial tying of adjacent properties;
- (g) the extension of a sectional title scheme by the addition of land to common land in terms of section 26 of the Sectional Titles Act;
- (h) the removal, amendment or suspension of a restrictive condition of title –
 - (i) that has not been imposed in terms of this By-law or a repealed municipal planning law; or
 - (ii) that is not accompanied by the written approval of the person or entity in whose favour the condition is registered;
- (i) the permanent closure of a municipal road or a public place;
- (j) an application for municipal planning approval that has been referred to the Municipal Planning Tribunal by a Municipal Planning Authorised Officer;
- (l) a non-material amendment to a Municipal Planning Tribunal's decision on an application in terms of paragraphs (a) to (j).

Applications for municipal planning approval that must be decided by the Municipal Council

4. The following applications for municipal planning approval must be decided by a Municipal Council –

- (a) the adoption of land use scheme;
- (b) an amendment to wording of land use scheme, including development controls contained in it;
- (c) the zoning or rezoning of land in accordance with a new zone; and
- (d) the zoning or rezoning land by the Municipality to achieve the development goals and objectives of the municipal spatial development framework.
- (e) an amendment to an application in terms of paragraphs (a) to (d), prior to the approval thereof by a Municipal Council;
- (f) a correction to a decision of a Municipal Council on an application in terms of paragraphs (a) to (d) to correct an error in the wording of the decision, correct a spelling error, update land description, or update a reference to a law, person, institution, place name or street name; and
- (g) a non-material amendment to a Municipal Council's decision on an application in terms of paragraphs (a) to (d).

SCHEDULE 3
ACTIVITIES IN AREAS SITUATED OUTSIDE THE AREA OF A LAND USE SCHEME THAT REQUIRE
MUNICIPAL PLANNING APPROVAL
(Section 46(e))

Activities that require municipal planning approval outside the area of a land use scheme

1. The following activities require municipal planning approval outside the area of a land use scheme –

- abattoir
- adult premises
- agricultural or forestry building
- airport
- betting shop
- bus depot
- caravan park
- car wash
- casino
- cemetery
- court room
- crematorium
- dairy
- day care centre
- dormitory
- educational building
- escort agency
- factory
- fast food drive-through
- fire station
- funeral parlour
- government subsidised dwelling
- health facility
- kennels
- laundrette
- mining operation
- mortuary
- multiple dwellings
- office
- overnight accommodation establishment
- paper mill
- parking lot
- petroleum production operation
- place of public amusement
- place of public assembly
- place of safety
- police station
- power generation plant
- prison
- recreational building
- restaurant
- retirement home

saw mill
scrap-metal yard
service industry
service station
shop
shopping mall
sugar mill
tannery
tavern
taxi rank
telecommunication mast
train station
vehicle repair workshop
vehicle scrap-yard
vehicle showroom
veterinary clinic
warehouse
water bottling plant

Land use definitions

2. In this Schedule –

"abattoir" means a building used for the slaughtering of animals with a production of 50 or more units of poultry per day or 6 or more units of red meat and game per day;

"adult premises" means a building used for the distribution of adult films and publications contemplated in section 24 of the Films and Publications Act, 1996 (Act No. 65 of 1996);

"agricultural or forestry building" means –

(a) a building or buildings on the same land that is used for the concentration of animals for the purpose of commercial production or sale –

(i) that is 400m² or more in extent or that together are 400m² or more in extent; or

(ii) that is 8 metres or more in height;

(b) a building or buildings on the same land that is used for the cultivation, processing, packaging, storage or sale of crops, flowers or trees –

(i) that is 400m² or more in extent or that together are 400m² or more in extent; or

(ii) that is 8 metres or more in height; and

(c) a building or buildings on the same land that is used for the storage of farm and forestry vehicles and implements–

(i) that is 400m² or more in extent or that together are 400m² or more in extent; or

(ii) that is 8 metres or more in height;

"airport" means a tract of levelled land where aircraft can take off and land, equipped with a hard-surfaced landing strip and a control tower;

"betting shop" means a building used to handle bets on races and other events;

"bus depot" means a building or land where three or more buses load and unload passengers;

"caravan park" means land for the accommodation of more than one caravan or mobile homes;

"car wash" means a building or land used for the cleaning of vehicles for commercial gain;

"**casino**" means a casino as defined in section 1 of the KwaZulu-Natal Gaming and Betting Act, 2010 (Act No. 8 of 2010);

"**cemetery**" means an area of land that is 1000m² or more in extent, used for burying the dead;

"**child care centre**" means a building used for the daily accommodation and care of 6 or more children under 18 years of age in the absence of their parents or guardians;

"**court room**" means a building in which the proceedings of a court of law are held;

"**crematorium**" means a building or furnace used for burning human or animal bodies to ashes;

"**dairy**" means an area of a building that is 100m² or more in extent, used for the production and processing of milk;

"**day care centre**" means a building used for the care of 6 or more children under 18 years of age during the daytime absence of their parents or guardians;

"**dormitory**" means a building used in conjunction with an educational building for living quarters for seven or more students;

"**educational building**" means a building used as a university, college, technical institute, school, academy, research laboratory, lecture hall, convent, monastery, public library, public art gallery or museum;

"**escort agency**" means a building used to provide an escort service for sexual services;

"**factory**" means an area of a building that is 100m² or more in extent or an area of land that is 100m² or more in extent, used for the manufacturing of goods;

"**fast food drive-through**" means a building used for the sale of food and beverages to customers who remain in their vehicles;

"**fire station**" means a building that houses a fire brigade;

"**funeral parlour**" means a building used for the purpose of funeral management and the sale of coffins and tombstones;

"**government subsidised dwelling**" means a dwelling that is funded or partially funded with funds from the Integrated Residential Development Programme, the Upgrading of Informal Settlements Programme, the Rural Housing Subsidy: Communal Land Rights, or a similar programme of an organ of state, irrespective of where the dwelling is situated;

"**health facility**" means a building used by a health agency or a health establishment as defined in section 1 of the National Health Act for the care and treatment of human illness, including a hospital, clinic and doctor's consulting room;

"**kennels**" means the use of land for the keeping of four or more dogs, cats, or other small domestic animals for financial gain;

"**launderette**" means a building used for the purpose of washing and drying clothing and household fabrics for financial gain;

"mining operation" means the processing of any mineral as defined in section 1 of the Mineral and Petroleum Resources Development Act on, in or under the earth, water or residue deposit, whether by underground or open working or otherwise –

- (a) if a mining right contemplated in section 22 of the Mineral and Petroleum Resources Development Act is required or has been granted for the operation, but processing has not commenced by 10 October 2008, or
- (b) if a mining right has been granted in terms of a repealed law for the operation, but processing has not commenced by 10 October 2008;

"mortuary" means a building where dead bodies are kept and prepared before burial or cremation;

"multiple dwellings" means –

- (a) a second dwelling on land –
 - (i) that is 80m² or more in extent, or
 - (ii) that is a distance of 20m or more away from the first dwelling on the same land; or
- (b) three or more dwellings on the same land,

unless the land has been declared by the Municipality as land for the settlement in an unstructured manner by a traditional community or indigent households contemplated in section 121(1);

"nursing home" means a building used for the accommodation and care of persons with chronic illness or disability, including persons with mobility and eating problems;

"office" means an area of a building used for consultations with clients, administration, or clerical services that is 100m² or more in extent;

"place for overnight accommodation" means a building where three or more bedrooms are used for the overnight accommodation of guests for financial gain, including a bed and breakfast, a guesthouse, a lodge or a hotel;

"paper mill" means a building used for producing paper and cardboard from timber;

"parking lot" means a building or land used for the parking or storage of ten or more motorcars or bakkies, or two or more buses or trucks, excluding –

- (a) the parking and storage of vehicles used for farming, forestry, game viewing or conservation on a farm or in an area that has been declared a protected in terms of the KwaZulu-Natal Nature Conservation Management Act, 1997 (Act No. 9 of 1997); or
- (b) the parking of vehicles in designated parking areas that have been provided in accordance with requirements for a development approval in terms of any planning law;

"petroleum production operation" means a production operation as defined in section 1 of the Mineral and Petroleum Resources Development Act –

- (a) for which a production right contemplated in section 84 of the Mineral and Petroleum Resources Development Act is required or has been granted, but production has not commenced by 10 October 2008; or
- (b) for which a production right has been granted in terms of a repealed law, but production has not commenced by 10 October 2008;

"place of public amusement" means a building used for public entertainment and includes a night club, theatre, cinema, music hall, amusement-arcade, skating-rink, race track, sports arena, exhibition hall, billiards room and fun fair;

"**place of public assembly**" means a building used for social gatherings, religious purposes or indoor recreation by 50 or more persons;

"**police station**" means a building that houses the police force;

"**power generation plant**" means land, a building or equipment used for the generation of electric energy from an energy source like fossil fuel, gas, wind, water or solar energy –

- (a) with an electricity output of more than 10 megawatts; or
- (b) a total extent that covers an area in excess of 1 hectare;

"**prison**" means a building used for the confinement of detained persons;

"**recreational building**" means a building used for a gymnasium or clubhouse;

"**restaurant**" means a building used for the preparation and sale of food, confectionery and beverages for consumption on the premises;

"**retirement home**" means a building used for living quarters for more than seven persons who are 65 years or older;

"**saw mill**" means a building used for producing planks and boards from timber;

"**scrap-metal yard**" means a building or land used for the collection of metal objects for recycling purposes;

"**service industry**" means an area of a building that is 100m² or more in extent or an area of land that is 100m² or more in extent, used for the repair, recycling, cleaning or packaging of goods that are not manufactured or produced on the land or the transport of goods that are not manufactured or produced on the land;

"**service station**" means a building used for the sale of fuel for vehicles;

"**shop**" means an area of a building that is 30m² or more in extent or an area of land that is 30m² or more in extent, used for the sale or hire of goods;

"**shopping mall**" means an enclosed building containing a variety of stores connected by common pedestrian passageways that is used for shopping, including the sale of groceries, food, clothes, cosmetics, jewellery, books, music, toys, sport equipment, camping equipment, cell phones, household appliances, décor and furniture and provision of services, including a bank, hairdresser, pharmacy, optometrist, laundrette, pet shop, movie house, video-hire, internet café and workshop for the repair of shoes or cell phones;

"**sugar mill**" means a building used for the production of sugar from sugar cane and the processing of sugar;

"**tannery**" means a building where skins and hides are tanned;

"**tavern**" means a building that is used for the sale of alcoholic beverages to be consumed on the premises and "bar" and "pub" have a corresponding meaning;

"**taxi rank**" means a building or land where three or more taxis load or unload passengers;

"**telecommunication mast**" means a mast that is 15 metres or taller that is used to support an antennae for communicating television radio, or telephone signals;

"train station" means a building or land operated by Transnet where trains load or unload passengers or goods;

"vehicle repair workshop" means a building used for the repair of vehicles;

"vehicle scrap-yard" means a building or land used for the dismantling of vehicles or the storage of wrecked vehicles;

"vehicle showroom" means a building used for the sale of vehicles;

"veterinary clinic" means a building where animals are given medication or surgical treatment and are cared for during the time of such treatment for financial gain;

"warehouse" means an area of a building that is 100m² or more in extent, used for the storage of goods, excluding the storage of farm implements on a farm;

"water bottling plant" means a building used for the bottling of natural water for financial gain.

SCHEDULE 4

APPLICATION PROCESSES FOR MUNICIPAL PLANNING APPROVAL: ALL APPLICATIONS, EXCEPT AN APPLICATION FOR A DWELLING ON LAND DEMARCATED FOR THE SETTLEMENT IN AN UNSTRUCTURED MANNER BY A TRADITIONAL COMMUNITY OR INDIGENT HOUSEHOLDS (SCHEDULE 7)

*(Section 53(1))***Persons who may make an application**

1.(1) An application for municipal planning approval must be made by –

- (a) the owner of the land that is the subject of an application, including an organ of state;
- (b) a person acting with the written consent of the owner of the land that is the subject of the application;
- (c) an organ of state, if it is in the process of acquiring the land that is the subject of the application.

(2) Any person may make application for municipal planning approval for the permanent closure of a municipal road or public place.

Applications that must be prepared by a person with a qualification and experience in land use planning or law

2.(1) The following applications for municipal planning approval must be prepared by a Registered Planner, a person registered in terms of section 18(1)(a) of the Architectural Profession Act, or a person registered in terms of section 13(1)(d) of the Geomatics Professions Act as a Land Surveyor, or under the direction or in association with such a person –

- (a) an application for the adoption of a land use scheme;
- (b) an application to amend the wording of a land use scheme, including development controls contained in it;
- (c) an application to zone or rezone land;
- (d) an application for consent in terms of land use scheme to use land for a purpose that it may only be used for with the municipality's consent;
- (e) an application for township establishment; and
- (f) an application for the permanent closure of a municipal road or a public place.

(2) A person under whose direction or with whom a person has prepared an application for municipal planning as contemplated in subitem (1) must sign the application and by their signature assumes responsibility for the application, as if he or she has prepared the application himself or herself.

(3) An application for municipal planning approval that is not listed in subitem (1) may be prepared by any person, but the Municipal Planning Registrar may require that it must be prepared by a Registered Planner, a person registered in terms of section 18(1)(a) of the Architectural Profession Act, a person registered in terms of section 13(1)(d) of the Geomatics Professions as a Land Surveyor, an attorney or advocate, or under the direction or in association with such a person, if it is a complex application that requires such technical expertise.

(4) If the Municipal Planning Registrar is not a Registered Planner, he or she must consult a Registered Planner employed by the Municipality before requiring that an application for municipal planning approval must be prepared or be prepared under the direction of or in association with a person contemplated in subitem (3).

Pre-application procedure

3.(1) An applicant must obtain approvals from organs of state, including municipal departments, and any other information which are necessary for determining an application for municipal planning approval.

(2) Organs of state, including municipal departments, must provide an applicant with the information that he or she needs in order to make an application for municipal planning approval within 60 days from being served with a request for the information, or such further period as agreed upon with the applicant.

(3) The Municipal Planning Registrar may assist an applicant to identify the information that is required to make an application for municipal planning approval.

(4) The Municipal Planning Registrar may not give advice on the merits of an application for municipal planning approval when it assists an applicant.

(5) A Municipal Planning Approval Authority may require an applicant to provide proof of any other statutory approval if, in its opinion, it is necessary to enable it to decide an application for municipal planning approval.

Failure by an organ of state to comment on an application for municipal planning approval

4.(1) An organ of state shall be regarded as having no comment on an application for municipal planning approval, if it did not provide comment on the proposed application within the time permitted, unless the use or development of land is dependent on an engineering service that it must provide.

(2) An organ of state may refuse to comment on an application for municipal planning approval, if a separate application for its approval is required in terms of a law administered by it.

(3) The Municipal Planning Registrar may proceed with the processing of an application for municipal planning approval, if an organ of state failed to provide comment on a proposed application for municipal planning approval within the timeframe specified, or such further period as agreed upon with the organ of state, unless –

- (a) the use or development of land is dependent on an engineering service that must be provided by the organ of state;
- (b) the organ of state refused to comment on the application because a separate application for its approval is required in terms of a law administered by it; or
- (c) another law prohibits the Municipal Planning Registrar from proceeding with the application.

Lodging of application

5.(1) An application for municipal planning approval must be accompanied by –

- (a) an application form;
- (b) a written motivation by the applicant in support of the application;
- (c) proof of registered ownership and a copy of the property diagram, unless the application relates to a general amendment of a land use scheme;
- (d) written consent of the registered owner of that land, if the applicant is not the owner thereof, unless the application relates to a general amendment of a land use scheme;
- (e) written confirmation by the land owner's association, body corporate established in terms of section 36(1) of the Sectional Titles Act, or a share block company contemplated in section 1 of the Share Blocks Control Act that the application complies with its design guidelines and rules for plan approval, if applicable;
- (f) written support of the traditional council for the application, if the land is located in a traditional authority area;
- (g) proof of circulation of an application to organs of state, including municipal departments;
- (h) if an application is an application for the subdivision or consolidation of land or township establishment –
 - (i) whether the Surveyor General must approve –
 - (aa) a diagram; or
 - (bb) a general plan,for the subdivision or consolidation of the land or establishment of a township;
 - (ii) whether the Surveyor-General must approve the land –
 - (aa) as a farm or a subdivision of a farm, including a portion or a remainder of a farm;
 - (bb) as a subdivision of land that is not a farm;
 - (cc) as an erf in an existing township; or
 - (dd) as an erf in a new township;

- (i) the proposed property descriptions, and
- (j) any other plans, diagrams, documents, ESRI Shapefiles, information or fees that the Municipal Planning Registrar may require.

- (2) An application for municipal planning approval must be lodged with –
- (a) the Municipal Planning Registrar;
 - (b) another person designated by the Municipal Manager to receive applications for municipal planning approval; or
 - (c) the Municipal Manager, if a Municipality has not appointed the Municipal Planning Registrar and the Municipal Manager has not appointed any other person to receive applications for municipal planning approval.
- (3) The Municipal Planning Registrar may not refuse to accept an application for municipal planning approval because the application is incomplete.

Records of receipt of application, request for additional information and confirmation that application is complete

- 6.(1) The Municipal Planning Registrar must –
- (a) record receipt of an application for municipal planning approval in writing on the day of receipt; and
 - (b) notify the applicant in writing within 30 days after receipt of an application, or such further period as agreed upon with the applicant, which may not be more than 60 days after receipt of the application –
 - (i) that the application is complete; or
 - (ii) of any additional plans, documents other information or fees required.
- (2) An application for municipal planning approval is regarded as complete, if the Municipal Planning Registrar did not request additional information within 30 days, or a further period as agreed upon with the applicant.

Provision of additional information

- 7.(1) An applicant must provide the Municipal Planning Registrar with the additional information required for the completion of an application for municipal planning approval contemplated in item 6(1)(b)(ii) within 90 days, or such further period as agreed upon with the applicant, which may not be more than 180 days from the request for additional information.
- (2) The provisions of item 4 apply to additional information that is required from an organ of state.
- (3) An applicant may decline in writing to provide the additional information required, in which case the Municipal Planning Registrar must proceed with the processing of the application for municipal planning approval.
- (4) An application for municipal planning approval lapses, if an applicant failed to submit plans, documents or information required by the Municipal Planning Registrar within the time permitted, unless the applicant declined in writing to provide the additional plans, documents or information before the application lapsed.
- (5) A may refuse an application for municipal planning approval, if it does not contain information that is necessary for it to make an informed decision contemplated section 6(2)(e)(iii) of the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000).

Confirmation of lodging of complete application, if additional information was required

- 8.(1) The Municipal Planning Registrar must notify the applicant in writing within 14 days after receipt of the additional plans, documents or information required –
- (a) that the application is complete; or
 - (b) that the additional plans, documents or information do not meet the Municipality's requirements.

(2) If the time in which the applicant must provide the additional plans, documents or information has not yet expired, the applicant may resubmit the improved plans, documents or information, in which case the procedure in subitem (1) must be repeated.

(3) An application for municipal planning approval is regarded as a complete, if the Municipal Planning Registrar failed to notify the applicant in writing within 14 days –

- (a) that the application is complete; or
- (b) that the additional plans, documents or information do not meet the Municipality's requirements.

Referral of application affecting the national interest to the Minister of Rural Development and Land Reform

9. If an application for municipal planning approval affects the national interest as contemplated in section 52(1) and (2) of the Spatial Planning and Land Use Management Act, the Municipal Planning Registrar must serve a copy of the application on the Minister –

- (a) upon confirmation that the application is complete; or
- (b) upon the application being regarded as complete.

Monitoring of application by the responsible Member of the Executive Council

10. If the responsible Member of the Executive Council has determined that an application for municipal planning approval must be submitted to him or her for monitoring and support purposes as contemplated in section 105(2) of the Municipal Systems Act, the Municipal Planning Registrar must serve a copy of the application on him or her –

- (a) upon confirmation that the application is complete; or
- (b) upon the application being regarded as complete.

Public consultation

11.(1) The Municipal Planning Registrar must determine if it is necessary to consult the public on an application for municipal planning approval within –

- (a) 14 days of having been notified that the application is complete; or
- (b) 14 days after the application is regarded as complete.

(2) The Municipal Planning Registrar may require an applicant to consult the public at the applicant's expense by means of any combination of the methods of public notice contemplated in item 1 of Schedule 5.

(3) The closing date for submitting comments on an application for municipal planning approval may not be less than 30 days from the date of the notice.

(4) A notice of an application for municipal planning approval must include the items listed in item 2 of Schedule 5.

(5) An applicant may give notice of an application for municipal planning approval jointly with an application for environmental authorisation as contemplated in item 3 of Schedule 5 or with an application for a mining right as contemplated in item 4 of Schedule 5.

(6) An applicant must provide the Municipal Planning Registrar with proof that notice was given of an application for municipal planning approval.

Applicant's right to respond

12.(1) The Municipal Planning Registrar must serve –

- (a) copies of all comments received in response to a notice of an application; and
- (b) a notice informing the applicant of the applicant's right to respond to the comments and the right to waive the right to respond to the comments,

on an applicant within 7 days after the closing date for comment.

(2) An applicant may, within 60 days from the date that the Municipal Planning Registrar served the comments and accompanying notice on the applicant, lodge a written response to the comments with the Municipal Planning Registrar.

(3) An applicant may in writing waive the right to respond to comments.

Referral of application to Municipal Planning Approval Authority

13.(1) The Municipal Planning Registrar must confirm –

- (a) that the application for municipal planning approval complies with items 5 to 12 of this Schedule, and if it does not, provide details of the defect; and
- (b) that the application complies with the Municipality's Spatial Development Framework, and if it does not, provide details of the departure.

(2) The Municipal Planning Registrar must compile the documents for consideration by the Municipal Planning Authorised Officer or Municipal Planning Tribunal, which must include –

- (a) the application for municipal planning approval;
- (b) proof that the applicant gave notice of the application, if notice was required;
- (c) comments received in response to the notice of the application, if any;
- (d) the applicant's response to the comments, if any; and
- (e) confirmation that the application complies with items 5 to 11 of this Schedule, or details of the defect, if it does not.

(3) The Municipal Planning Registrar must refer an application for municipal planning approval and the accompanying documents –

- (a) that must be decided by a Municipal Planning Authorised Officer to the Municipal Planning Authorised Officer;
- (b) that must be decided by the Municipal Planning Tribunal or Chairperson of the Municipal Planning Tribunal to the Chairperson of a Municipal Planning Tribunal;
- (c) that must be decided by the Municipal Council to the Chairperson of a Municipal Planning Tribunal for the Municipal Planning Tribunal's technical evaluation and recommendation.

(4) The Municipal Planning Registrar must refer an application for municipal planning approval to the Planning Officer or the Chairperson of a Municipal Planning Tribunal –

- (a) if it was not necessary to give notice of an application –
 - (i) upon confirming that the application is complete; or
 - (ii) upon the application being regarded as complete,
- (b) if notice must be given of an application –
 - (i) upon the closing date for representations contemplated in item 2(f) of Schedule 5, if no comments were received;
 - (ii) upon receipt of an applicant's response to comments contemplated in item 12(2);
 - (iii) upon the expiry of the 60 days within which the applicant may respond to comments contemplated in item 12(2);
 - (iv) upon receipt of an applicant's waiver of the right to respond to comments contemplated in item 12(3); or
 - (v) upon receipt of confirmation of –
 - (aa) the approval or refusal an application for environmental authorisation; or
 - (bb) the granting or refusal of a mining right,if joint notice was given of applications as contemplated in items 3 and 4 of Schedule 5, whichever is the latter.

- (5) An application for municipal planning approval that has been referred to a Municipal Planning Authorised Officer or the Chairperson of a Municipal Planning Tribunal must be accompanied by –
- (a) proof that the applicant gave notice of the application, if applicable;
 - (b) comments received in response to the notice, if any; and
 - (c) the applicant's response to the comments, if any.

Site inspection

14.(1) If the Municipal Planning Approval Authority is a Municipal Planning Authorised Officer, he or she must conduct a site inspection within 30 days from the date that an application for municipal planning approval and accompanying documents were referred to him or her.

- (2) If the Municipal Planning Approval Authority is a Municipal Planning Tribunal or the Municipal Council –
- (a) the Municipal Planning Tribunal must decide whether to conduct a site inspection within 21 days from the date that an application for municipal planning approval and accompanying documents were referred to the Chairperson of the Municipal Planning Tribunal;
 - (b) the Municipal Planning Registrar must in writing notify –
 - (i) the applicant; and
 - (ii) any other person identified by the Presiding Officer;of the date and time for the site inspection; and
 - (c) the site inspection must be conducted within 60 days from the date that an application for municipal planning approval and accompanying documents were referred to the Municipal Planning Tribunal.

(3) A Municipal Planning Authorised Officer or Municipal Planning Tribunal must leave land or a building as effectively secured against trespassers as it found it, if the owner or occupier is not present.

(4) A person who has entered upon land or entered a building for the purposes of this item, who has gained knowledge of any information or matter relating to another person's private or business affairs in the process, must treat that information or matter as confidential and may not disclose it to any other person.

- (5) A person is guilty of an offence and liable on conviction to a fine or to a period of imprisonment not exceeding one year, or both, if that person subsequently discloses to any other person trade secrets or any privileged information obtained whilst entering upon land or entering a building, except if the disclosure –
- (a) was made for the purposes of deciding the appeal; or
 - (b) was ordered by a competent court or is required under any law.

(6) A person who wilfully obstructs a person from entering upon land or entering a building contemplated in this item is guilty of an offence and is liable on conviction to a fine or to a period of imprisonment not exceeding six months, or both.

Public hearing

15.(1) If the Municipal Planning Approval Authority is the Municipal Planning Tribunal or the Municipal Council, the Municipal Planning Tribunal must decide whether to hold a public hearing within 21 days from the date that an application for municipal planning approval and accompanying documents were referred to the Chairperson of the Municipal Planning Tribunal.

- (2) A hearing should only be convened if, in the opinion of the Municipal Planning Tribunal, a hearing will –
- (a) assist in resolving disputes of fact or of law;
 - (b) assist the parties to the application to resolve differences of opinion arising from the application or any objections made thereto; or
 - (c) promote consensus on any aspect of the application.

(3) The Municipal Planning Tribunal must hold a public hearing, if necessary, within 60 days from the date that an application for municipal planning approval and accompanying documents were referred to it.

(4) The Municipal Planning Registrar must –

- (a) in writing notify –
 - (i) the applicant; and
 - (ii) all parties who commented on an application for municipal planning approval, of the public hearing;
- (b) display at least four notices of a size at least 210mm X 297mm (A4) on the frontage of the land, or at any other conspicuous and easily accessible place on the land; and
- (c) publish a notice in a newspaper circulating in the area of the land.

(5) A notice of a public hearing must –

- (a) specify the place, date and time thereof;
- (b) state the purpose thereof; and
- (c) inform parties of their rights contemplated in this item –
 - (i) to be present or represented; and
 - (ii) to state their case or lead evidence in support thereof.

(6) Any person has a right to attend the public hearing or to be represented at the public hearing, and to personally, or through their representative –

- (a) state their case;
- (b) call witnesses to testify and to present other evidence to support their case;
- (c) cross-examine any person called as a witness by any opposite party;
- (d) have access to documents produced in evidence; and
- (e) address on the merits of the application for municipal planning approval.

(7) Any member of the public may attend a hearing but may not speak at the hearing with the leave of the Chairperson of the hearing who may impose any conditions limiting the person's address.

(8) Any person that disrupts or interrupts the proceedings of a hearing may be asked to leave the hearing.

(9) A Municipal Planning Approval Authority may take cognisance of any evidence produced at a public hearing when it considers an application for municipal planning approval.

Registered planner's report on an application

16.(1) If the Municipal Planning Approval Authority is a Municipal Planning Authorised Officer –

- (a) he or she must assess merits of the application for municipal planning approval in writing; or
- (b) refer the application to a Registered Planner employed by the Municipality to –
 - (i) assess the merits of the application in writing; and
 - (ii) make a recommendation on the application.

(2) If the Municipal Planning Approval Authority is the Municipal Planning Tribunal or Municipal Council –

- (a) a Registered Planner designated by the Chairperson of the Municipal Planning Tribunal in terms of section 16(2) must –
 - (i) assess the merits of the application in writing; and
 - (ii) make a recommendation on the application;
- (b) the Presiding Officer must refer the application to a Registered Planner employed by the Municipality to –
 - (i) assess the merits of the application in writing; and
 - (ii) make a recommendation on the application.

Time in which a Municipal Planning Authorised Officer or a Municipal Planning Tribunal must decide an application

17.(1) If the Municipal Planning Approval Authority is a Municipal Planning Authorised Officer or a Municipal Planning Tribunal, it must decide the application for municipal planning approval –

(a) within 60 days from the date that the application and accompanying documents –

(i) were referred to the Municipal Planning Authorised Officer, or

(ii) were referred to the Chairperson of the Municipal Planning Tribunal,

if the Municipal Planning Authorised Officer or Municipal Planning Tribunal did not conduct a site inspection or hold a public hearing;

(b) within 30 days after the date of the site inspection or public hearing, whichever is the later date, if Municipal Planning Authorised Officer or Municipal Planning Tribunal did conduct a site inspection or held a public hearing; or

(c) such further period as agreed upon with the applicant, which period may not exceed 180 days after the date that the application and accompanying documents were referred to –

(i) the Municipal Planning Authorised Officer, or

(ii) the Chairperson of the Municipal Planning Tribunal.

(2) An application for municipal planning approval lapses if a Municipal Planning Authorised Officer or a Municipal Planning Tribunal failed to decide the application within the specified period.

Municipal Planning Tribunal's recommendation on an application that must be decided by the Municipal Council

18. If the Municipal Planning Approval Authority is the Municipal Council, a Municipal Planning Tribunal must make a recommendation on the application for municipal planning approval to the Municipal Council –

(a) within 60 days from the date that the application and accompanying documents were referred to the Chairperson of the Municipal Planning Tribunal, if the Municipal Planning Tribunal did not conduct a site inspection or hold a public hearing;

(b) within 30 days after the date of the site inspection or public hearing, whichever is the later date, if the Municipal Planning Tribunal did conduct a site inspection or held a public hearing; or

(c) such further period as agreed upon with the applicant, which period may not exceed 180 days after the date that the application and accompanying documents were referred to the Chairperson of the Municipal Planning Tribunal.

Referral of application that must be decided by the Municipal Council to the council

19.(1) Upon receipt of a Municipal Planning Tribunal's recommendation the Municipal Planning Registrar must refer an application for municipal planning approval to the Municipal Council.

(2) An application for municipal planning approval that is referred to a Municipal Council must be accompanied by –

(a) a summary of the comments received in response to the public consultation process, if any;

(b) the applicant's response to the comments, if any;

(c) the Municipal Planning Tribunal's report on the application;

(d) the Municipal Planning Tribunal's recommendation on the application; and

(e) the Municipal Planning Tribunal's decision on any application for municipal planning approval relating to the same development that it decided.

Time in which a Municipal Council must decide an application

20.(1) A Municipal Council must decide an application for municipal planning approval –

(a) within 90 days after it received the documents contemplated in item 13; or

(b) within 90 days after a Municipality resolved whether or not to amend its Integrated Development Plan to accommodate an application for municipal planning approval contemplated in section 50(6); or

(c) such further period as agreed upon with the applicant, which period may not exceed 180 days after the date that the application and accompanying documents were referred to the Municipal Council.

(2) An application for municipal planning approval lapses, if a Municipal Council failed to decide the application within the specified period.

SCHEDULE 5
PUBLIC NOTICE
(Section 53(1))

Methods of public notice

1.(1) Give notice of an application for municipal planning approval in a local newspaper except for Special Consent applications not exceeding 6m² of floor Area, that the Municipality has determined as its newspaper of record contemplated in section 21(1)(b) of the Municipal Systems Act, on a day of the week that the Municipality has determined as its day of the week for the publication of notices in terms of this By-law, and in a language which it has determined in terms of section 21(2) of the Municipal Systems Act as its official language.

(2) Convene a public meeting to inform the public of an application for municipal planning approval.

(3) Make a copy of the application available for inspection at a prominent place at a local shopping mall together with a person who can answer question on the application.

(4) Display a notice on the land or at another other conspicuous and easily accessible place, the number and location of which must be determined by the Municipal Planning Registrar.

(5) Serve a notice on –

- (a) the owner of adjacent land, if it is not governed by a body corporate or a land owners association;
- (b) the Chairperson of a body corporate that governs adjacent properties who must serve the notice on the members of the body corporate who may be affected by the application;
- (c) the Chairperson of a land owners association of adjacent properties who must serve the notice on the members of the land owners association who may be affected by the application;
- (d) the holder of a servitude registered against the land that may be affected by the application;
- (e) a person in whose favour a condition of title is registered against the land that may be affected by the application;
- (f) the Municipal Councillor of the ward in which the land is situated;
- (g) traditional leaders or other community leaders; or
- (h) any other person who may in the opinion of the Municipality have an interest in an application for municipal planning approval.

Contents of public notice

2. A notice inviting the public or a person to comment on an application for municipal planning approval must –

- (a) identify the land to which the application relates –
 - (i) by stating the physical address of the land, or, if the land has no physical address, by providing a description of its location; and
 - (ii) by giving the property description;
- (b) state the purpose of the application;
- (c) state that a copy of the application and its accompanying documents will be open for inspection by interested members of the public during the hours and at the place mentioned in the notice;
- (d) invite members of the public to cause written comments to be lodged with the contact person stated in the notice;
- (e) state how the comments may be lodged;
- (f) state the date by when the comments must be lodged, which date may not be earlier than 30 days, excluding public holidays, after the date that the notice is published, served or displayed;

(g) state that a person's failure so to submit comments in response to the notice or to include contact details, disqualifies the person from the right to receive personal notice of any public hearing and the right to appeal; and

(h) state that persons who lodged comments before in response to the application do not have to do so again, if notice was given before of the same application.

Joint public notice for an application for municipal planning approval and an application for environmental authorisation

3.(1) An applicant may give notice of both an application for municipal planning approval and an application for environmental authorisation in the same notice.

(2) A joint notice must state that it is a notice in terms of both item 11(1) of Schedule 4 of this By-law and regulations 54 to 57 of the Environmental Impact Assessment Regulations.

(3) A joint notice must comply with the provisions of item 2 of this Schedule and regulations 54 to 57 of the Environmental Impact Assessment Regulations.

Joint public notice for an application for municipal planning approval and an application for a mining right

4.(1) An applicant and a Regional Manager contemplated in section 8 or a designated agency contemplated in section 70 of the Mineral And Petroleum Resources Development Act may give notice of both an application for municipal planning approval and an application for a mining right in the same notice.

(2) A joint notice must state that it is a notice in terms of both item 11(1) of Schedule 4 of this By-law and regulation 3(3) of the Mineral and Petroleum Resources Development Regulations.

(3) A joint notice must comply with the provisions of item 2 of this Schedule and regulation 3 of the Mineral and Petroleum Resources Development Regulations.

SCHEDULE 6

PROCEDURE FOR AMENDING AN APPLICATION OR DECISION FOR MUNICIPAL PLANNING APPROVAL
AND CANCELLATION OF MUNICIPAL PLANNING APPROVAL*(Sections 53(4) and 70)***Application for an amendment to an application for municipal planning prior to notice of decision on the main application**

1.(1) An applicant may apply to amend an application for municipal planning approval on his or her own initiative or at the request of the Municipal Planning Approval Authority.

(2) A Municipal Planning Approval Authority may instruct an applicant to –

- (a) give written notice of an amendment to an application for municipal planning approval to a person who responded in writing to the invitation to comment on the application for municipal planning approval; or
- (b) to repeat the giving of notice process, if, in the opinion of the Municipal Planning Approval Authority, the amendment to the application constitutes a material change to the application.

(3) Comments received by the Municipal Planning Registrar in response to the original invitation to comment on an application for municipal planning approval remain valid, if the giving of public notice process is repeated.

Application for an amendment to a Municipal Planning Approval Authority's Record of Decision to correct an error or update a reference

2.(1) A person contemplated in item 1 of Schedule 4 may apply for an amendment to the wording of a Municipal Planning Approval Authority's Record of Decision in order to –

- (a) correct an error in the wording of the decision;
- (b) rectify a spelling error;
- (c) reflect the correct designation of the land by the Surveyor General;
- (d) update a reference to a law, person, functionary, organ of state, or an institution; or
- (e) update a reference to a street or place name.

(2) The Municipal Planning Registrar must refer an application for a correction to a Municipal Planning Approval Authority's Record of Decision to the Municipal Planning Approval Authority within 14 days after the application was served on him or her.

(3) An application for a correction to a Municipal Planning Approval Authority's Record of Decision must be decided –

- (a) by a Municipal Planning Authorised Officer or the Chairperson of a Municipal Planning Tribunal, within 30 days after the application was referred to him or her;
- (b) by the Municipal Council, within 60 days after the application was referred to it.

(4) A Municipal Planning Approval Authority must –

- (a) approve, including partly approve; or
- (b) refuse,

an application for a correction to the Record of Decision.

Application for a non-material amendment to a decision on an application or cancellation of municipal planning approval

3.(1) An application for a non-material amendment to a decision on an application for municipal planning approval or cancellation of municipal planning approval must follow the procedure contemplated in items 1 to 8, 13 (excluding item 13(2)(b)), 14, and 16 to 20 of Schedule 4, except –

- (a) The Municipal Planning Registrar must notify an applicant within 15 days instead of 30 days after receipt of an application that it is complete or that additional information is required as contemplated in item 6(1)(b);
- (b) the reference to items 5-12 in item 13 must be regarded as a reference to items 5-8;
- (c) a Municipal Planning Authorised Officer or Municipal Planning Tribunal must decide an application –
 - (i) within 30 days instead of 60 days as contemplated in item 17(1)(a);
 - (ii) within 15 days instead of 30 days as contemplated in item 17(1)(b); or
 - (iii) within the period contemplated in item 17(1)(c);
- (d) a Municipal Planning Tribunal must make a recommendation on an application that must be decided by the Municipal Council –
 - (i) within 30 days instead of 60 days as contemplated in item 18(a);
 - (ii) within 15 days instead of 30 days as contemplated in item 18(b); or
 - (iii) within the period contemplated in item 18(c);
- (e) the references to a public hearing in items 17(1)(b) and 18(b) should be ignored.

Matters that a Municipal Planning Approval Authority must consider when deciding if an application qualifies as an application for a non-material amendment to a decision

4.(1) A Municipal Planning Approval Authority must determine if an application constitutes an application for a non-material amendment to a decision.

(2) A Municipal Planning Approval Authority must take the following matters into account when deciding if an application qualifies as an application for a non-material amendment to a decision on an application for municipal planning approval, if applicable –

- (a) if the amendment will result in –
 - (i) a change in the area covered by a development, particularly the outside boundary;
 - (ii) a change in the area covered by buildings;
 - (iii) a significant increase in the density of a development;
 - (iv) a significant increase in the impact of a development on engineering services;
 - (v) a significant change to the location of buildings;
 - (vi) the location of buildings closer to buildings on adjacent properties;
 - (vii) greater visual intrusion, audio intrusion, loss of light, feeling of enclosure or any other adverse effect on the living conditions of occupants of the development or occupants of adjacent properties;
 - (viii) a change in the overall design and appearance of a development, particularly if it is located in an environmentally sensitive area; or
 - (ix) conflict with a condition of approval imposed by the municipal planning approval authority;
- (b) if any relevant objections to the original application for municipal planning approval would be compromised by the proposed amendment;
- (c) if the amendment would result in the introduction of new aspects or elements that warrant consultation with adjacent land owners, organs of state or the public;
- (d) if the change would have been approved, had it formed part of the original application for municipal planning approval; and
- (e) the volume and frequency of previous amendments to the same decision.

(3) If, in the opinion of the municipal planning approval authority, a proposed amendment to a decision constitutes a material change to a decision, the Municipal Planning Approval Authority must instruct the applicant in writing to make a new application for municipal planning approval.

SCHEDULE 7

APPLICATION PROCESS FOR A DWELLING ON LAND DEMARCATED FOR THE SETTLEMENT IN AN UNSTRUCTURED MANNER BY A TRADITIONAL COMMUNITY OR INDIGENT HOUSEHOLDS

*(Section 53(2))***Persons who may make an application**

1. An application for municipal planning approval for the erection of a dwelling house on land declared by the Municipality as land for the settlement of indigent households must be made by the head of the household.

Lodging of application

2.(1) An application for municipal planning approval for the erection of a dwelling house on land declared by the Municipality as land for the settlement in an unstructured manner by a traditional community or indigent households must include –

- (a) the name and contact details of the applicant;
- (b) the name of the household which the applicant represents;
- (c) the name of the traditional area and of the isiGodi where the land is situated, if applicable;
- (d) the name of the Inkosi of such traditional area and of the isInduna of the such isiGodi, if applicable;
- (e) the approval of the Inkosi and isInduna or other community leaders;
- (f) the GPS co-ordinates for the site to which the application applies with sufficient details to indicate its approximate extent; and
- (g) photographic evidence of the site.

(2) An application for municipal planning approval for the erection of a dwelling house on land declared by the Municipality as land for the settlement in an unstructured manner by a traditional community or indigent households must be lodged with –

- (a) the Municipal Planning Registrar;
- (b) another person designated by the Municipal Manager to receive applications for municipal planning approval; or
- (c) the Municipal Manager, if a Municipality has not appointed The Municipal Planning Registrar and the Municipal Manager has not appointed any other person to receive applications for municipal planning approval.

Confirming availability of the site

3.(1) If the information is complete, the Municipal Planning Registrar must –

- (a) verify that the land forms part of land declared by the Municipality as land for the settlement in an unstructured manner by a traditional community or indigent households; and
- (b) compare the application to the Municipality's records of –
 - (i) other applications and approvals for municipal planning approval in the same area; and
 - (ii) land reserved for engineering services or social infrastructure in the area,to determine if the land is available for settlement.

(2) If another person has claimed the same site, the Municipal Planning Registrar must inform the applicant accordingly and request the applicant to –

- (a) withdraw the application; or
- (b) amend the application in consultation with the other person, and the Inkosi and isInduna or other community leaders.

(3) The application is considered withdrawn, if no response to the Municipal Planning Registrar's request have been received within 90 days after the request was made.

Granting of municipal planning approval**4.(1) If –**

- (a) the application is complete;
- (b) the land forms part of land declared by the Municipality as land for the settlement in an unstructured manner by a traditional community or indigent households;
- (c) the land has not been claimed by someone else;
- (d) the land is not required for engineering services or social infrastructure;
- (e) land is not prone to flooding of any other conditions that makes it unsafe for human habitation;
- (f) the land has not been identified by the Minister responsible for Agriculture as high value agricultural land that is required for national food security; and
- (g) the land is not land that is environmentally sensitive,

the Municipal Planning Registrar must issue the applicant with a certificate permitting the erection of a dwelling house on the land.

(2) The certificate must contain –

- (a) the name, identity number and contact details of the applicant;
- (b) the name of the household which the applicant represents;
- (c) the name of the traditional area and of the isiGodi where the land is situated, if applicable;
- (d) the name of the Inkosi of such traditional area and of the isInduna of the such isiGodi, if applicable;
- (e) the GPS co-ordinates for the site to which the application applies with sufficient details to indicate its approximate extent; and
- (f) photographic evidence of the site.

(3) The Municipal Planning Registrar must record the information in subitem (2) in the register contemplated in section 114(1).

(4) If the application is incomplete, the site is not available, or it is on land contemplated in subitem (1), the Municipal Planning Registrar may refuse the application.

(5) The Municipal Planning Registrar may grant municipal planning approval subject to any conditions.

Transfer of municipal planning approval

5.(1) A certificate permitting the erection of a dwelling house on land declared by the Municipality as land for the settlement in an unstructured manner by a traditional community or indigent households may be transferred to another person.

(2) An application for the transfer of a certificate permitting the erection of a dwelling house on land declared by the Municipality as land for the settlement in an unstructured manner by a traditional community or indigent households must include –

- (a) the name, identity number and contact details of the applicant;
- (b) the name of the household which the applicant represents;
- (c) the name of the traditional area and of the isiGodi where the land is situated, if applicable;
- (d) the name of the Inkosi of such traditional area and of the isInduna of the such isiGodi, if applicable;
- (e) a copy of the certificate to be transferred;
- (f) one of the following documents –
 - (i) approval of the holder of the certificate for the transfer of the land use right;
 - (ii) a death certificate confirming that the holder of the certificate is deceased; or
 - (iii) confirmation by the Inkosi and isInduna or other community leaders that the holder of the certificate is deceased or his or her whereabouts and contact details are unknown;
- (g) the approval of the Inkosi and isInduna or other community leaders;

(h) the GPS co-ordinates for the site to which the application applies with sufficient details to indicate its approximate extent; and

(i) updated photographic evidence of the site.

(3) If the application is complete, the Municipal Planning Registrar must –

(a) issue the applicant with a certificate containing the information in item 5(1); and

(b) update the register contemplated in section 114(1).

SCHEDULE 8

MATTERS THAT A MUNICIPAL PLANNING APPROVAL AUTHORITY MUST CONSIDER WHEN IT DECIDES OR MAKES A RECOMMENDATION ON AN APPLICATION FOR MUNICIPAL PLANNING APPROVAL

*(Section 54(1))***Matters that a Municipal Planning Approval Authority must consider when it decides or makes a recommendation on an application for municipal planning approval**

1.(1) A Municipal Planning Approval Authority must take the following matters into account when it decides or makes a recommendation on an application for municipal planning approval, if applicable –

- (a) the application;
- (b) comments received in response to the public consultation process;
- (c) the applicant's reply;
- (d) the Municipal Planning Registrar's assessment of compliance of the application with the application process;
- (e) the Registered Planner's report and recommendation on the application, if applicable;
- (f) the development principles in terms of section 7 of the Spatial Planning and Land Use Management Act;
- (g) policies, including national and provincial policies adopted in terms of any law and the Municipality's own policies;
- (h) norms and standards, including –
 - (i) national norms and standards for land use management and land development in terms of section 8 of the Spatial Planning and Land Use Management Act;
 - (ii) provincial planning norms and standards; and
 - (iii) the Municipality's own norms and standards;
- (i) spatial development frameworks, including –
 - (i) a national spatial development framework adopted in terms of section 13(1) of the Spatial Planning and Land Use Management Act;
 - (ii) a provincial spatial development framework adopted in terms of section 15(1) of the Spatial Planning and Land Use Management Act;
 - (iii) a regional spatial development framework adopted in terms of section 18(1) of the Spatial Planning and Land Use Management Act; and
 - (iv) the municipal spatial development framework adopted in terms of section 25(1) of the Municipal Systems Act read with section 20(1) of the Spatial Planning and Land Use Management Act;
- (j) the Municipality's Integrated Development Plan in terms of section 25(1) of the Municipal Systems Act;
- (k) the Municipality's land use scheme, including matters that a Municipality must consider that have been identified in the land use scheme;
- (l) the design guidelines and rules for plan approval of the land owner's association, body corporate or share block company that has been deposited with the Municipality;
- (m) the authorisation in terms of the Environmental Impact Assessment Regulations;
- (n) the potential impact, including the cumulative impact, on –
 - (i) the environment;
 - (ii) socio-economic conditions;
 - (iii) cultural heritage;
 - (iv) existing developments;
 - (v) existing rights to develop land; and
 - (vi) mineral rights;
- (o) the human and financial resources likely to be available for implementing the municipal planning approval;
- (p) the benefits that accrue from the adoption, replacement or amendment of land use scheme compared to the cost of compensation in terms of Chapter 8;
- (q) the provision and standard of engineering services;

- (t) the impact, including the cumulative impact, of the application on the national, provincial and municipal road networks, public transport, municipal services, sewage and waste water disposal, water and electricity supply, waste management and removal, policing and security;
 - (u) access to health, educational and recreational facilities;
 - (v) the historical effects of past racially discriminatory and segregatory legislation on land ownership, land development and access to engineering services and public facilities, and the need to address the historical imbalances;
 - (w) the protection or preservation of cultural and natural resources, including agricultural resources, unique areas or features, landscape character and biodiversity;
 - (x) the natural and physical qualities of that area;
 - (y) the number and purpose for which properties will be used when a Municipality decides if the Surveyor-General should –
 - (i) approve a diagram for each property or a general plan for all the properties; and
 - (ii) approve the land –
 - (aa) as a farm, including a portion or a remainder of a farm;
 - (bb) as a subdivision of land that is not a farm; or
 - (cc) as an erf in a township;
 - (z) the need to prohibit the alienation of a part of the land by means of a sectional title scheme in terms of the Sectional Titles Act or a share block in terms of the Share Blocks Control Act, 1980 (Act No. 59 of 1980);
 - (aa) the provisions of section 13 of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989) relating to the zoning of land owned by Transnet and other laws which regulate the zoning of land;
 - (ab) any local practice or approach to land use management that is consistent with –
 - (i) the laws of the Republic;
 - (ii) the provincial planning norms and standards; and
 - (iii) the Municipality's Integrated Development Plan; and
 - (ac) any other relevant factor.
- (2) A reduction in the value of land is not solely a relevant consideration for the purposes of considering the merits of an application for municipal planning approval.
- (3) If the Municipal Planning Approval Authority is the Municipal Council –
- (a) it may consider a summary of the comments received in response to the public consultation process, instead of the comments; and
 - (b) it must consider the Municipal Planning Tribunal's recommendation on the application in addition to the matters in this Schedule.

SCHEDULE 9
INFORMATION THAT MUST BE INCLUDED IN RECORD OF DECISION
(Section 55(4))

Information that must be included in a Record of Decision on an application for municipal planning approval

1. The following information must be recorded in a Record of Decision on an application for municipal planning approval –

- (a) the details of the application, including –
 - (i) the nature of the application;
 - (ii) the property descriptions of the properties involved, unless the application is an application for a general land use scheme amendment; and
 - (iii) the application number;
- (b) its decision;
- (c) the conditions subject to which the application was approved, if it was approved subject to conditions, including –
 - (i) which conditions must be complied with before the erection of a structure on the land or the use of the land in accordance with the approval;
 - (ii) which conditions must be complied with before the construction of a building on the land;
 - (iii) which conditions must be complied with before occupation of the land;
 - (iv) which conditions must be complied with before the land may be registered in separate ownership; and
 - (v) which conditions must be registered against the land;
- (d) if the Surveyor-General must –
 - (i) approve a general plan or a diagram for the subdivision or consolidation of the land;
 - (ii) if the Surveyor-General must approve a property –
 - (aa) as a farm, including a portion or a remainder of a farm;
 - (bb) as a subdivision of land that is not a farm; or
 - (cc) as an erf in a township;
- (e) the reasons for its decision;
- (f) the reasons for the changes, if changes were made to an application by an applicant or the Municipality;
- (g) the particulars of the public consultation process, including –
 - (i) if public consultation was required for the application;
 - (ii) if notice of the application in a newspaper was required, the name of the newspaper in which the notice was published and the date on which it was published;
 - (iii) if a public meeting was held to inform the public of an application, and the date of the meeting;
 - (iii) if a site inspection was held, and the date of the site inspection;
 - (v) if a public hearing was held, and the date of the public hearing;
- (h) if any comments were received in response to an invitation to comment on the application –
 - (i) the closing date to lodge a memorandum of appeal;
 - (ii) that a summary of the rights and obligations of appellants can be obtained from the Municipal Planning Appeal Authority Registrar;
 - (iii) the name and contact details of –
 - (aa) the applicant;
 - (bb) the Municipal Planning Appeal Authority Registrar;
 - (cc) a person at the Municipality on whom a memorandum of appeal, request for the late lodging of an appeal or a responding memorandum of appeal may be served; and
- (i) the effective date of the Municipality's decision.

SCHEDULE 10
APPEAL PROCESS
(Section 75(1))

Part 1: Lodging of memorandum of appeal, lodging of responding memorandum, summoning of person to lodge document and collation of documents

Lodging of memorandum of appeal

1.(1) A memorandum of appeal must –

- (a) provide the essential facts of the matter;
- (b) state the grounds of appeal and the relief sought;
- (c) raise any issues, which the appellant wants the Municipal Planning Appeal Authority to consider in making its decision;
- (d) fully motivate an application for condonation; and
- (e) fully motivate an award for costs, if the relief sought includes a request for costs against the Municipality, on the grounds that its decision is –
 - (i) grossly unreasonable;
 - (ii) manifestly in disregard of –
 - (aa) the procedures prescribed in this By-law; or
 - (bb) the development principles in terms of section 7 of the Spatial Planning and Land Use Management Act;
 - (cc) policies, including national and provincial policies adopted in terms of any law and the Municipality's own policies; or
 - (dd) national norms and standards for land use management and land development in terms of section 8 of the Spatial Planning and Land Use Management Act, provincial planning norms and standards or the Municipality's own norms and standards.

(2) If the appellant is an applicant, the appellant must serve the memorandum of appeal on –

- (a) the Municipal Planning Appeal Authority Registrar;
- (b) the Municipal Manager; and
- (c) all the persons who responded in writing to an invitation to comment on the application for municipal planning approval who –
 - (i) responded before the closing date for comments; and
 - (ii) have provided their contact details.

(3) If the appellant is a person who lodged a written comment in terms of, the appellant must serve the memorandum of appeal on –

- (a) the Municipal Planning Appeal Authority Registrar;
- (b) the Municipal Manager; and
- (c) the applicant.

(4) If possible, an appellant must also submit a copy of the memorandum of appeal by electronic mail to the Municipal Planning Appeal Authority Registrar.

Lodging of responding memorandum

2.(1) A person on whom a memorandum of appeal has been served, may lodge a responding memorandum.

(2) A responding memorandum must –

- (a) state whether the appeal is opposed or not, and, if opposed, the grounds of opposition;

- (b) raise any issues or matters, which that party wants the Municipal Planning Appeal Authority to consider in making its decision;
- (d) fully motivate an application for condonation; and
- (c) include any request for an order for costs against the appellant and the reasons for the request, including an order for costs on the grounds that the appeal is vexatious or frivolous.

(3) A person who wants to lodge a responding memorandum must, within 30 days after the memorandum of appeal was served on that person serve the responding memorandum on –

- (a) the Municipal Planning Appeal Authority Registrar; and
- (b) the Municipal Manager.

(4) If possible, a person who wants to lodge a responding memorandum must also submit a copy of the responding memorandum by electronic mail to the Municipal Planning Appeal Authority Registrar.

Parties to an appeal hearing

3. Only the following persons shall be parties to an appeal hearing –

- (a) the applicant; and
- (b) a person who has lodged a written comment in terms of items 7(d) of Schedule 6 –
 - (i) who has lodged an appeal against the decision of the Municipality; or
 - (ii) who has lodged a responding memorandum.

Withdrawal of appeal or opposition to appeal

4.(1) An appellant may withdraw an appeal by serving written notice of its withdrawal on the Municipal Planning Appeal Authority Registrar, the Municipal Manager and on every other party to the appeal.

(2) A respondent may withdraw its opposition to an appeal by serving a written notice of withdrawal of that opposition on the Municipal Planning Appeal Authority Registrar, the appellant and every other party to the appeal hearing.

(3) A party to an appeal hearing, who is aggrieved by the withdrawal of an appeal by an appellant, may apply to the Municipal Planning Appeal Authority for an award of costs against the appellant.

Powers of Municipal Planning Appeal Authority with regard to witness

5.(1) The Presiding Officer may subpoena any person to attend the site inspection or appeal hearing, in order –

- (a) to testify and be questioned as a witness with regard to any relevant matter; or
- (b) to produce any document or object in the possession or under the control of that person, and to be questioned with regard thereto.

(2) A person who has been subpoenaed or called by a party as a witness at the site inspection or appeal hearing may be required by the Presiding Officer to take an oath or make an affirmation as a witness before testifying or being questioned.

(3) The law relating to privilege in a civil court of law applies to a witness subpoenaed or called to give evidence or to produce a document.

Issuing and service of subpoena to secure attendance of witness

6.(1) A subpoena contemplated in item 5(1) of this Schedule must be issued by the Presiding Officer under his or her signature, and must –

- (a) specifically require the person named in it to appear before the Municipal Planning Appeal Authority to testify or produce a document or any other object to the Municipal Planning Appeal Authority;

- (b) state the reasons why the person is required to appear before the Municipal Planning Appeal Authority to testify or produce a document or any other object to the Municipal Planning Appeal Authority;
- (c) if applicable, sufficiently identify the document or object which the person is required to produce; and
- (d) state the date, time and place at which the person must appear before the Appeal Authority

(2) A subpoena must be served on a person by a person who has been authorised in writing by the Municipal Planning Appeal Authority Registrar to serve it.

(3) A person who is serving a subpoena must display to the person who is served with a subpoena the original subpoena or the written authorisation to serve the subpoena, if requested to do so.

(4) A person who is serving a subpoena must provide a written return of service to the Municipal Planning Appeal Authority Registrar, including the manner in which the subpoena was served.

Powers of Municipal Planning Appeal Authority with regard to document required to decide appeal

7.(1) The Presiding Officer, upon request of members of the Municipal Planning Appeal Authority or of any party to the appeal hearing, may subpoena any person to lodge any document in the possession or under the control of that person with the Municipal Planning Appeal Authority Registrar.

(2) A person who has been subpoenaed to lodge a document with the Municipal Planning Appeal Authority Registrar must serve the document on the Municipal Planning Appeal Authority Registrar at least 21 days before the appeal hearing commences.

(3) If the Presiding Officer has subpoenaed a Municipality to lodge a document that the Municipality relied on when it decided an application for municipal planning approval, and the Municipality fails to serve the document on the Municipal Planning Appeal Authority Registrar, the Municipal Planning Appeal Authority may uphold the appeal on the ground that the Municipality did not apply its mind when it decided the application.

(4) The law relating to privilege in a civil court of law applies to a person subpoenaed to lodge a document with the Municipal Planning Appeal Authority Registrar.

Issuing and service of subpoena to obtain document

8.(1) A subpoena contemplated in item 5(1) of this Schedule must be issued by the Presiding Officer under his or her signature, and must –

- (a) specifically require the person named in it to lodge the document with the Municipal Planning Appeal Authority Registrar;
- (b) state the reasons why the document is required by the Municipal Planning Appeal Authority;
- (c) sufficiently identify the document which the person is required to lodge with the Municipal Planning Appeal Authority Registrar;
- (d) state to how, where and by which date the document must be lodge with the Municipal Planning Appeal Authority Registrar.

(2) If the Presiding Officer has subpoenaed the Municipal Planning Approval Authority to lodge a document that it relied on when it decided an application for municipal planning approval, a warning that if it fails to serve the document on the Municipal Planning Appeal Authority Registrar, the Municipal Planning Appeal Authority may uphold the appeal on the ground that the Municipal Planning Approval Authority did not apply its mind when it decided the application.

(3) A subpoena must be served on a person by a person who has been authorised in writing by the Municipal Planning Appeal Authority Registrar to serve it.

(4) A person who is serving a subpoena must display to the person who is served with a subpoena the original subpoena or the written authorisation to serve the subpoena, if requested to do so.

(5) A person who is serving a subpoena must provide a written return of service to the Municipal Planning Appeal Authority Registrar, including the manner in which the subpoena was served.

(6) The law relating to privilege in a civil court of law applies to a person subpoenaed to lodge a document with the Municipal Planning Appeal Authority Registrar.

Collation of documents required to decide appeal

9.(1) A party to an appeal hearing must serve every document on which the party intends to rely on at an appeal hearing on the Municipal Planning Appeal Authority Registrar at least 21 days before the appeal hearing commences.

(2) If possible, a party to the appeal hearing must also submit copies of the documents by electronic mail to the Municipal Planning Appeal Authority Registrar.

(3) The Municipal Planning Appeal Authority Registrar must collate all the memoranda and any other documents received from a party to an appeal hearing or requested by the Presiding Officer and post the collated documents on the Internet at least 14 days before the appeal hearing commences.

(4) If a party to an appeal hearing does not have access to the Internet, the party may obtain a copy of the collated documents from the Municipal Planning Appeal Authority Registrar at the cost of reproduction and posting.

Part 2: Setting down of appeal for hearing, site inspection and hearing of appeal

Setting down of appeal for hearing

10.(1) The Municipal Planning Appeal Authority Registrar must forward the memoranda to the Presiding Officer –

- (a) upon expiry of the period allowed by item 2(3) for the lodging of responding memorandum; or
- (b) as soon as the Municipal Planning Appeal Authority Registrar has been advised in writing by the parties entitled to lodge responding memoranda, that they do not intend to do so,

whichever occurs first.

(2) The Municipal Planning Appeal Authority Registrar must –

- (a) within 21 days after receipt by the Presiding Officer of the memoranda contemplated in item 1(1) of this Schedule, set the date, time and place for the hearing of the appeal, which date may not be later than –
 - (i) 90 days after the date on which the memorandum of appeal was lodged with the Municipal Planning Appeal Authority Registrar; or
 - (ii) such extended date as may be agreed upon between the parties to the appeal and the Registrar;
- (b) in writing, notify all the parties to the appeal of the date, time and place set for the hearing thereof.

Rescinding of an appeal due to undue delay by appellant

11. The Presiding Officer may in writing rescind an appeal, if he or she is satisfied –

- (a) that the Municipal Planning Appeal Authority Registrar has made at least three attempts to set a date, time and place to hear the appeal;
- (b) that the appellant has been warned that failure to agree to a date, time and place to hear the appeal can lead to the appeal being rescinded; and
- (c) the appellant had sufficient opportunity to agree to a date, time and place to hear the appeal.

Postponement of site inspection or hearing

12. (1) Any party to an appeal may request in writing that the site inspection or hearing be postponed at least 10 days prior to the site inspection or hearing.
- (2) The presiding officer may grant a postponement upon good cause shown and must notify the parties of his or her decision within 5 days of the party's request.
- (3) If the postponement is opposed, the presiding officer may request the parties to the appeal to make representations before ruling on the matter.

Site inspection

- 13.(1) Members of the Municipal Planning Appeal Authority may enter upon land or a building relevant to an appeal before it, during normal business hours or at any other reasonable hour, to conduct an inspection of the site.
- (2) All the parties to an appeal hearing are entitled to attend an inspection and may be represented at the inspection.
- (3) The Municipal Planning Appeal Authority Registrar must notify all parties to the appeal hearing in writing, of the Municipal Planning Appeal Authority's intention to carry out an inspection.
- (4) The notice of the inspection must –
- (a) specify the place, date and time of the inspection;
 - (b) state the purpose of the proposed inspection; and
 - (c) invite all parties to the appeal hearing to be present during the inspection.
- (5) The date and time of the inspection must be determined by the Municipal Planning Appeal Authority Registrar after consultation with the occupiers of the land or buildings concerned.
- (6) In the event that the owner or occupier is not present during the inspection, the members of the Municipal Planning Appeal Authority must leave the land or building as effectively secured against trespassers as they found it.
- (7) Any person who enters upon land or enters a building to attend a site inspection by the Municipal Planning Appeal Authority, who gains knowledge of another person's private or business affairs in the process, must treat that information as confidential and may not disclose it to any other person.
- (8) A person who discloses knowledge of another person's private or business affairs that has been gained in the process of attending a site inspection of the Municipal Planning Appeal Authority is guilty of an offence, and liable upon conviction to a fine or to a period of imprisonment not exceeding one year, or both, unless the disclosure –
- (a) was made for the purposes of deciding the appeal;
 - (b) was ordered by a competent court; or
 - (c) is required under any law.
- (9) A person who wilfully obstructs the Municipal Planning Appeal Authority from entering upon land or a building contemplated in this item, is guilty of an offence and is liable upon conviction to a fine of R10 000.

Hearing

- 14.(1) The Municipal Planning Appeal Authority Registrar must notify all parties to an appeal hearing in writing of the time and place of the appeal hearing.
- (2) The Presiding Officer –
- (a) determines the procedure of the appeal hearing; and
 - (b) decides all questions and matters arising with regard to the procedure at the appeal hearing.

(3) The Municipal Planning Appeal Authority must consider the merits of the matter on appeal, and to that end the Presiding Officer may allow the appellant and other parties in the appeal to raise new issues and to introduce new evidence, whether oral or documentary.

(4) A party to an appeal hearing is entitled to be present at the hearing of the appeal, and to –

- (a) be represented by a legal representative or any other person;
- (b) state a case and lead evidence in support thereof or in rebuttal of the evidence;
- (c) call witnesses to testify and question those witnesses;
- (d) present other evidence;
- (e) cross-examine any person called as a witness by any other party; and
- (f) address the Municipal Planning Appeal Authority on the merits.

(5) A party to an appeal hearing may object to the opposite party raising any issue or relying on any document not relied on in that party's memorandum on the ground that –

- (a) the opposite party has not established good reason for the introduction of that issue or document in the proceedings; or
- (b) the introduction thereof in the proceedings is likely to cause the objecting party unfair prejudice.

(6) The Presiding Officer must make a ruling as to whether or not the objection to the raising of the new issue or reliance on a new document is to be upheld, and, in the light of that ruling, may make any appropriate order, including an order for the –

- (a) payment of the costs relating to the determination of the objection, or
- (b) adjournment of the hearing for a period stipulated in the order.

Hearing of appeal in absence of parties

15. (1) The Municipal Planning Appeal Authority may, after a notice of hearing has been served on all the parties, hear an appeal in the absence of an appellant or any other party if –

- (a) it is satisfied that the reasons provided to it by the appellant or other party are not of a nature that necessitate his or her attendance;
- (b) the party has notified the appeal authority that he or she does not wish to be present at the hearing; or
- (c) the party fails to attend the hearing without providing any reasons for non-attendance.

Circumstances in which hearing may be dispensed with

16. The Municipal Planning Appeal Authority may decide an appeal by considering the documents lodged with it without holding a hearing if –

- (a) the Municipal Planning Appeal Authority is of the view that the issues for determination of the appeal can be adequately determined in the absence of the parties; and
- (b) the parties consent in writing to the appeal being determined without a hearing.

SCHEDULE 11
APPLICATION FOR LATE LODGING OF MEMORANDUM OF APPEAL
(Section 75(2))

Application for late lodging of memorandum of appeal

1.(1) An applicant or a person who has a right of appeal, may, within the 30 days allowed for the lodging of an appeal, apply to the Chairperson for an extension of the period within which to lodge a memorandum of appeal.

(2) An application for an extension of the period within which to lodge a memorandum of appeal must be in the form of an affidavit, showing good cause as to why the application should be granted.

(3) An application for an extension of the period within which to lodge a memorandum of appeal must be served on –

- (a) the Municipal Planning Appeal Authority Registrar;
- (b) the Municipality; and
- (c) the applicant, if the person lodging the application for the late lodging of a memorandum of appeal is not the applicant

Opposition by an applicant to late lodging of a memorandum of appeal

2.(1) An opposition by an applicant to the late lodging of a memorandum of appeal must be in the form of an affidavit, showing good cause why the application for the late lodging of an appeal should not be granted.

(2) An applicant that intends to oppose an application for the late lodging of an appeal must serve an affidavit opposing the application for the late lodging of an appeal within 14 days after having been served with an application for the late lodging of a memorandum of appeal on –

- (a) the Municipal Planning Appeal Authority Registrar;
- (b) the Municipality; and
- (c) the person who lodged the application for an extension of the period within which to lodge a memorandum of appeal.

Matters relevant in determining merits of late lodging of a memorandum of appeal

3. The Presiding Officer must consider the following matters, in so far as they may be relevant, in deciding on an application for the late lodging of a memorandum of appeal –

- (a) the information and reasons contained in the application for the late lodging of a memorandum of appeal;
- (b) the information and reasons contained in the affidavit opposing the late lodging of a memorandum of appeal;
- (c) the underlying facts and circumstances for the application for the late lodging of a memorandum of appeal;
- (d) the potential prejudice to any party to the appeal; and
- (e) the time that has elapsed from the date of notice of the Municipality's decision.

Decision on application for late lodging of a memorandum of appeal

4. The Presiding Officer must –

- (a) rule on an application for late lodging of a memorandum of appeal within 30 days of the expiry of the period for the lodging of an application for the late lodging of a memorandum of appeal, which ruling may include an order as to costs as the Presiding Officer considers fair and appropriate;
- (b) in the event that an application for late lodging of a memorandum of appeal is granted, review and adjust the time limits relating to the lodging of memoranda and the hearing of the appeal by the Municipal Planning Appeal Authority.

Notice of decision on application for late lodging of a memorandum of appeal

5. The Municipal Planning Appeal Authority Registrar must, within seven days after the Chairperson has made a ruling on an application for the late lodging of a memorandum of appeal, serve written notice of the ruling on –
- (a) the Municipality;
 - (b) the person who lodged the application for an extension of the period within which to lodge a memorandum of appeal; and
 - (c) the applicant, if the applicant was not the person who lodged the application for an extension of the period within which to lodge a memorandum of appeal.

SCHEDULE 12

URGENT APPLICATION TO THE MUNICIPAL PLANNING APPEAL AUTHORITY TO CONFIRM THAT AN APPEAL IS INVALID OR FOR THE PARTIAL COMMENCEMENT OF A DECISION APPROVING AN APPLICATION FOR MUNICIPAL PLANNING APPROVAL

*(Section 75(3))***Urgent application to the Municipal Planning Appeal Authority to confirm that an appeal is invalid or for the partial commencement of a decision approving an application for municipal planning approval**

1.(1) An applicant may apply to the Presiding Officer before the appeal is heard –

(a) to confirm that an appeal is invalid, if –

(i) the appeal was lodged by a person who is not entitled to lodge an appeal to the Municipal Planning Appeal Authority; or

(ii) if the appellant is an applicant, he or she failed to serve a copy of the memorandum on a person contemplated in item 1(2) of Schedule 10;

(iii) if the appellant is a person who lodged a written comment in terms of item 2(d) of Schedule 5, he or she failed to serve a copy of the memorandum on a person contemplated in item 1(3) of Schedule 10;

(b) for the commencement of –

(i) a decision on an application for municipal approval in respect of land that is not affected by the appeal; or

(ii) the parts of a decision on an application for municipal planning approval that are not affected by the appeal.

(2) An urgent application must be in the form of an affidavit, showing good cause as to why the application should be granted.

(3) An urgent application must be served on –

(a) the Municipal Planning Appeal Authority Registrar;

(b) the Municipality; and

(c) the person who lodged the appeal.

Opposition to an urgent application

2.(1) An opposition to an urgent application must be in the form of an affidavit, showing good cause why the urgent application should not be granted.

(2) An appellant who intends to oppose an urgent application must serve an affidavit opposing the urgent application within 14 days after having been served with the urgent application on –

(a) the Municipal Planning Appeal Authority Registrar;

(b) the Municipality; and

(c) the applicant.

Matters relevant in determining merits of an urgent application to confirm that an appeal is invalid

3. The Presiding Officer must consider the following matters, in so far as they may be relevant, in deciding on an urgent application to confirm that an appeal is invalid –

(a) the information and reasons contained in the application;

(b) the underlying facts and circumstances for the application; and

(c) the potential prejudice to any party to the application.

Matters relevant in determining merits of an urgent application for the partial commencement of a decision approving an application for municipal planning approval

4. The Presiding Officer must consider the following matters, in so far as they may be relevant, in deciding on an urgent application for the partial commencement of a decision approving an application for municipal planning approval –

- (a) the information and reasons contained in the application;
- (b) the extent to which the land that will remain subject to the appeal will be affected by a decision to allow the commencement of the decision to grant municipal approval in respect of the balance of the land;
- (c) the extent to which it is possible to distinguish between the parts of the decision to grant municipal approval that may commence and the parts that may not;
- (d) the underlying facts and circumstances for the application; and
- (e) the potential prejudice to any party to the application.

Decision on urgent application

5. A Presiding Officer must rule on an urgent within 14 days of the expiry of the period for the lodging of an opposition to the application, which ruling may include an order as to costs as the Chairperson considers fair and appropriate.

Notice of decision on urgent application

6. The Municipal Planning Appeal Authority Registrar must, within seven days after a Presiding Officer has made a ruling on an urgent application, serve written notice of the ruling on –

- (a) the appellant whose appeal was the subject of the urgent application; and
- (b) the applicant.

SCHEDULE 13
TRANSITIONAL MEASURES
(Section 126)

Part 1: Town Planning Ordinance

Application for special consent approved in terms of the Town Planning Ordinance

1.(1) An approval for special consent in terms of section 67*bis* of the Town Planning Ordinance must be regarded as consent by the Municipality in terms of the land use scheme contemplated in section 54(3)(a) of this By-law.

(2) For the purposes of section 60(2) of this By-law, the effective date of a Municipality's special consent contemplated in section 67*bis* of the Town Planning Ordinance is –

- (a) the date of expiry of the 28 day period referred to section 67*ter* of the Town Planning Ordinance, if no appeal was lodged against the decision of the Municipality; or
- (b) the date that the appeal was decided, if an appeal was lodged against the decision of the Municipality in terms of section 67*ter* of the Town Planning Ordinance.

Pending application for special consent in terms of the Town Planning Ordinance

2.(1) A pending application for special consent in terms of section 67*bis* of the Town Planning Ordinance must be continued in terms of this By-law.

(2) The Municipal Planning Registrar must confirm the corresponding provision in the application process from which the application for municipal planning approval must be continued.

(3) An applicant does not have to comply with a requirement in terms of this By-law that are more onerous than the requirements of the Town Planning Ordinance in respect of a provision of this By-law that precedes the provision from which the application for municipal planning approval must be continued.

(4) An applicant does not have to comply with a requirement of the Town Planning Ordinance that is more onerous than the requirements of this By-law.

Part 2: Local Authorities Ordinance

Application for permanent closure of a public place approved in terms of the Local Authorities Ordinance

3.(1) An approval for the permanent closure of a public place in terms of section 212(1)(a) of the Local Authorities Ordinance must be regarded as approval by the Municipality in terms of section 54(3)(a) of this By-law.

(2) For the purposes of section 60(2) of this By-law, the effective date of a Municipality's approval contemplated in section 212(1)(a) of the Local Authorities Ordinance is the date upon which the Administrator approved the permanent closure of the public place as contemplated in section 212(1)(b) read with 211(2)(f) of the Local Authorities Ordinance.

Pending application for permanent closure of a public place in terms of the Local Authorities Ordinance

4.(1) A pending application for the permanent closure of a public place in terms of section 212 of the Local Authorities Ordinance must be continued in terms of this By-law.

(2) The Municipal Planning Registrar must confirm the corresponding provision in the application process from which the application for municipal planning approval must be continued.

(3) An applicant does not have to comply with a requirement in terms of this By-law that are more onerous than the requirements of the Local Authorities Ordinance in respect of a provision of this By-law that precedes the provision from which the application for municipal planning approval must be continued.

(4) An applicant does not have to comply with a requirement of the Local Authorities Ordinance that is more onerous than the requirements of this By-law.

(5) The Municipality does not require the Administrator's consent as contemplated in section 212(1)(b) read with 211(2)(f) of the Local Authority's Ordinance.

Part 3: Less Formal Township Establishment Act

Less formal settlement or township approved in terms of the Less Formal Township Establishment Act

5.(1) An application for a settlement approved in terms of section 3(1) or a township approved in terms of section 14(1) of the Less Formal Township Establishment Act, that has been approved –

- (a) subject to a layout plan; and
- (b) subject to conditions for the development thereof,

must be regarded as a township approved in terms of section 54(3)(a) this By-law.

(2) Despite –

- (a) the provisions of section 3(5)(b), (e) and (g) of the Less Formal Township Establishment Act; or
- (b) a decision to the contrary by the Administrator in terms of section 12(1) of the Less Formal Township Establishment Act,

this Act applies to land designated as a less formal settlement in terms of section 3(1) or a township approved in terms of section 14(1) of the Less Formal Township Establishment Act.

(3) An application is not required in terms of this By-law for –

- (a) the development of a less formal settlement in accordance with an approved layout plan and conditions of approval contemplated in section 4(1) of the Less Formal Township Establishment Act; or
- (b) the development of less formal township in accordance with an approved layout plan and conditions of approval contemplated in section 14(1)(a) of the Less Formal Township Establishment Act.

(4) An application is required in terms of this By-law for the subdivision of land or establishment of a township on land that has been designated as a less formal settlement in terms of section 3(1) of the Less Formal Township Establishment Act, if the land was not designated-

- (a) subject to a layout plan; or
- (b) subject to conditions for the development thereof.

Part 4: Development Facilitation Act

Development approved in terms of the Development Facilitation Act

6.(1) All applications, appeals or other matters pending before a Tribunal established in terms of section 15 of the Development Facilitation Act, 1995 (No 67 of 1995) at the commencement of the Spatial Planning and Land Use Management Act (1st July 2015) that have not been decided or otherwise disposed of, must be continued and disposed of in terms of the Spatial Planning Land Use Management Act.

(2) An application for development approved in terms of section 33(1) or 51(1) of the Development Facilitation Act must be regarded as an application for municipal planning approval approved in terms of section 47(2)(a) and 54(3)(a) of this By-law.

Functions of designated officer may be performed by Municipality

7.(1) Despite the repeal of the Development Facilitation Act, the Municipality must continue to perform the following functions conferred on a designated officer in terms of the Development Facilitation Act –

- (a) to publish the conditions of establishment imposed by the Development Tribunal or the Development Municipal Planning Appeal Tribunal that must be published in the Gazette, as contemplated in sections 33(4) and 51(3) of the Development Facilitation Act, in the Gazette;
- (b) to inform the Registrar of Deeds that the conditions of establishment which have to be complied with prior to the commencement of registration, have been complied with, contemplated in section 38(1)(c) of the Development Facilitation Act; and
- (c) to inform the Registrar of Deeds that the applicant and the Municipality have fulfilled their obligations relating to the provision of services, contemplated in section 38(1)(d) of the Development Facilitation Act.

(2) The Municipality must appoint a municipal official to perform the functions conferred on a designated officer as contemplated in this item.

Power reserved by Development Tribunal or Development Appeal Tribunal in a decision on an application in terms of the Development Facilitation Act

8.(1) A power reserved by the Development Tribunal or Development Appeal Tribunal in a decision on an application in terms of the Development Facilitation Act must be regarded as a power that must be exercised by the Municipality.

(2) The Municipality must comply with the provisions of this By-law, including the procedure for the amendment of a notice of a decision on an application for municipal planning approval, when exercising a power contemplated in this item.

Part 5: KwaZulu-Natal Planning and Development Act

Application approved in terms of KwaZulu-Natal Planning and Development Act

9. A decision by the Municipality –

- (a) to adopt a scheme contemplated in section 13(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (b) to replace a scheme contemplated in section 13(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (c) to approve an amendment to a Municipality's scheme contemplated in section 13(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (d) to approve the subdivision of land contemplated in section 26(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (e) to approve the consolidation of land contemplated in section 26(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (f) to approve the development of land situated outside the area of a scheme contemplated in section 43(1)(a) of the KwaZulu-Natal Planning and Development Act;
- (g) to approve the phasing or cancellation of an approved layout plan contemplated in section 55(1) of the KwaZulu-Natal Planning and Development Act; or
- (h) to approve the alteration, suspension or deletion of a restriction relating to land contemplated in section 65(1) of the KwaZulu-Natal Planning and Development Act,

must be regarded as approval for an application for municipal planning approval contemplated in sections 54(3)(a) of this By-law.

Application in terms of a repealed planning law that must be regarded as an application approved in terms of KwaZulu-Natal Planning and Development Act

10. An application in terms of a repealed planning law that must be regarded to be an application approved in terms of KwaZulu-Natal Planning and Development Act must be regarded as an application for municipal planning approval contemplated in sections 54(3)(a) of this By-law.

Pending application in terms of KwaZulu-Natal Planning and Development Act

11.(1) A pending application to the Municipality or a pending proposal by the Municipality in terms of the KwaZulu-Natal Planning and Development Act as contemplated in item 1 must be continued in terms of this By-law.

(2) The Municipal Planning Registrar must confirm the corresponding provision in the application process from which the application for municipal planning approval must be continued.

(3) An applicant does not have to comply with a requirement in terms of this By-law that are more onerous than the requirements of the KwaZulu-Natal Planning and Development Act in respect of a provision of this By-law that precedes the provision from which the application for municipal planning approval must be continued.

(4) An applicant does not have to comply with a requirement of the KwaZulu-Natal Planning and Development Act that is more onerous than the requirements of this By-law.

Validation of decision made in terms of KwaZulu-Natal Planning and Development Act after 30 June 2015 but before the commencement of this By-law

12. A decision by the Municipality to approve or refuse an application to it or a proposal by it in terms of the KwaZulu-Natal Planning and Development Act as contemplated in item 1 is not invalid by virtue of not complying with the provisions of the Spatial Planning and Land Use Management Act, if –

- (a) the application to it or proposal by it was made before 1 July 2015; and
- (b) the decision to approve or refuse the application or proposal was made after 30 June 2015 but before the commencement of this By-law.

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 116 OF 2016

**BYLAWS RELATING TO
Credit Control and Debt
Collection**

KWADUKUZA MUNICIPALITY**BYLAWS RELATING TO CREDIT CONTROL AND DEBT COLLECTION**

The Kwadukuza Municipality, acting under the authority of section 156 (2) of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) read with section 11 and section 98 of the Local Government: Municipal System Act, 2000 (Act No.32 of 2000), hereby publishes Credit Control and Debt Collection Bylaws which bylaws will come into effect on the 1 day of July 2016.

CHAPTER 1**DEFINITIONS****DEFINITIONS**

For the purpose of these bylaws, any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in these bylaws and unless the context indicates otherwise: -

“account”	means any account rendered for municipal services, sundry charges, housing services and rates;
“Act”	means the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000, as amended from time to time;
“actual consumption”	means the measured consumption of any customer;
“administration charges”	A fee charged on the capital rates then in arrears as determined by council from time to time;
“agreement”	means the contractual relationship between the municipality or its authorized agent and a customer, whether written or deemed;
“applicable charges”	means the rate, charge, tariff, flat rate, or subsidy determined by the council;
“area of supply”	means any area within or partly within the area of jurisdiction of the municipality or such other areas where the service is requested;
“arrangement”	means written agreement entered into between the Council and the debtor where specific repayment parameters are agreed;
“arrears”	means any amount due, owing and payable by a customer to the Municipality in respect of municipal services, sundry charges, housing service and rates not paid by due date;
“applicable charges”	means the rate, charge, tariff, flat rate, or subsidy determined by the Municipality;

“authorised agent”	means: - (a) any person authorised by the municipality to perform any act, function or duty in terms of, or exercise any power under these bylaws, and/or (b) any person to whom the municipality has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; and/or (c) any person appointed by the municipality in terms of a written contract or a service provider to provide revenue services to customers on its behalf, to the extent authorised in such contract;
“average consumption”	means the average consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the customer’s total measured consumption of that municipal service over the preceding six months by six;
“credit control and debt collection policy”	means the policy as adopted by the Municipality for the credit control and debt collections of the municipality as amended from time time by the municipality ;
Credit control:	means all functions and processes relating to the collection of monies due to the municipality
“Chief Financial Officer”	means a person employed by the Municipality as its Chief Financial Officer;
“commercial customer”	means any customer other than household and indigent customers, including without limitation, business, government and institutional customers;
“connection”	means the point at which a customer gains access to municipal services;
“Consolidated Bill”	A monthly bill reflecting all monies due to the Municipality in terms of Section 102 of the Act for electricity, refuse rates, vat and sundry charges;
“councillor”	means a person as defined in terms of the Act;
“customer”	means a person or owner with whom the municipality or its authorised agent has concluded an agreement or has an account with the Municipality;
“debtor”	means any person indebted to the Municipality;
“defaulter”	means any customer or ratepayer in arrears;

“deposit”	means an amount required as security to be determined by the Municipality;
“due date”	means: (i) <u>Monthly</u> The monthly date on which all accounts become due and payable which date shall be within 30 days after the date of the account during normal cashier hours. (ii) <u>Annual</u> Where the owner has entered into an agreement with the Municipality to pay property rates annually, the due date shall be a date to be determined by the Municipality.
“emergency situation”	means any situation that if allowed to continue poses a risk or potential risk to the financial viability or sustainability of the municipality or a specific municipal service;
“estimated consumption”	means the deemed consumption by a customer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of municipal services for a specific level of service during a specific period in the area of supply of the municipality or its authorised agent;
“household customer”	means a customer that occupies or owns a dwelling, structure or property primarily for residential purposes;
“household”	means a traditional family unit consisting of a combination of persons over the age of eighteen and persons eighteen years and younger) living together as a family unit;
“housing services”	means any rental (rates if applicable), instalment, administration charges, insurance premiums and housing interest.
“illegal connection”	means a connection to any system through which municipal services are provided which is not authorised or approved by the municipality or its authorised agent;
“indigent customer”	means a household customer qualifying and registered with the municipality as an indigent;
“interest/penalties”	means a charge with the same legal authority as service fees and calculated at a rate determined by Council from time to time on all arrear accounts (capital only);
“MFMA”	means the Municipal Finance Management Act No 56 of 2003;
“municipal area”	means the geographical area of the KwaDukuza Municipality as determined by the demarcation board in terms of the Demarcation Act No ;

“Municipality or Council”	means the KwaDukuza Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any Official who has delegated powers in terms of Section 59 of the Local Government Municipal Systems Act (Act 32 of 2000);
“Municipal Manager”	Means the person appointed by the municipality as the manager of the municipality in terms of section 55, section 56 and section 57 of the Municipal Systems Act read with Section 82 of the Local Government Municipal Structures Act 1998 (Act No. 117 of 1998) and includes any person: (a) acting in such position; and (b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty.
“municipal service”	means services provided by the municipality or its authorised agent, including refuse removal and electricity services;
“Municipal Clearance Certificate”	Means a certificate issued by the Municipality in terms of Section 118 of the Municipal Systems Act, which certifies that all amounts that became due in connection with the property for municipal service fees, surcharge on 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. The certificate issued will be valid for a period of 60 days from date of issue.
“occupier”	includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;
“owner”	means: - (a) the person in whom from time to time is vested the legal title to immovable property; (b) in a case where the person in whom the legal title to immoveable property is vested is insolvent or deceased, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manger, liquidator or other legal representative; (c) in any case where the municipality or its authorised agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such immovable property or buildings thereon

- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into with 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 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 'Home Owners Association', **which includes** all members of the Association;
- (f) the Ingonyama Trust, where the land is vested in the Trust by virtue of the provisions of the Ingonyama Trust Act No 3 of 1994 and the Ingonyama Trust Amendment Act, 9 of 1997
- (g) any legal person including but not limited to:
 - (i) a company registered in terms of the Companies Act, (Act 61 of 1973), a trust, a close corporation registered in terms of Close Corporation Act, (Act 69 of 1984) a voluntary association and any department of State;
 - (ii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa;
 - (iii) any Embassy or other foreign entity.

"person"

means any natural person, local government body or like authority, a company or close corporation incorporated under any law, body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"public notice"

means publication in an appropriate medium that may include one or more of the following: -

- (a) publication of a notice, in an official language determined by the Municipality in the local newspaper or newspapers in the area of the municipality; or in the newspaper or newspapers circulating in the area of the municipality determined by the Municipality as a newspaper on record; or by means of radio broadcast covering the area of the municipality; or displaying a

	notice at appropriate offices and pay-points of the municipality or its authorised agent, or
	(b) communication with customers through public meetings, on municipal website, electronic communication and ward committee meetings;
“Rates”	means : municipal tax levied on the valuation of property. The rate is expressed as cents in the rand.
“Rates Act”	means Municipal Property Rates Act 6 of 2004.
“Ratepayer”	means a person who is liable to the Municipality for the payment of: <ul style="list-style-type: none"> (a) Rates on the property within the Municipal area (b) Any other tax, duty, or levy imposed by the Municipality and/or (c) Fees for the services provided either by the Municipality or in terms of a service delivery agreement,
“Resident”	means a person who ordinarily resides in the Municipal area;
“Service Authority”	means the power of a Municipality to regulate the provision of a municipal service by a service provider;
“Service Delivery Agreement”	means an agreement between a Municipality and an institution or person mentioned in Section 76(b) of the Act, in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the Municipality.
“Service provider”	means a person or institution or any combination of persons and institutions which provide a municipal service;
“Service Utility”	means a municipal entity established in terms of Section 86B of the Act
“social housing tenant”	means any person letting / leasing any residential premises from any public legal body for less than a full rack rental or letting / leasing residential premises from a private person and receiving from the National / Provincial Government a subsidy or other amount to empower the tenant to pay the full rack rental.
“Staff”	means the employees of the municipality, including the municipal manager;
“Sundry charges”	means any charge excluding a municipal service, housing service and rates;

“supply zone”	means an area, determined by the municipality or its authorized agent, within which all customers are provided with service from the same bulk supply connection;
“Tamper with supply of power”	means the unauthorized or illegal consumption of electricity by unauthorized or illegal reconnection of electricity without authority.
“unauthorised services”	means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised approval by the municipality or its authorised agent.
“Vat”	means a charge legislated in terms of the Vat Act No. 89 of 1991 as amended.

CHAPTER 2

PROVISION OF MUNICIPAL SERVICES TO CUSTOMERS

PART 1: APPLICATION FOR MUNICIPAL SERVICES

2.1. APPLICATION AND REGISTRATION FOR SERVICES

- 2.1.1 No person shall be entitled to a municipal service unless such person has made application on the prescribed form, annexed hereto, and such application has been approved by the Municipality.
- 2.1.2. If, at the commencement of these bylaws or at any other time, municipal services are provided and received and no written agreement exist in respect of such services, it shall be deemed that: -
- (a) An agreement exists; and
 - (b) The level of services provided to that customer are the level of services elected, until such time as the customer enters into an agreement.
- 2.1.3. The applicant shall be obliged to furnish all documents required by the Municipality in terms of the credit control policy in order to register such person on the municipality's data base as a customer.
- 2.1.4. Persons who fail to register for services and who illegally benefits from services shall be subjected to punitive measures or such civil or criminal sanction as the municipality deems appropriate in terms of Section 53 of the Bylaws.
- 2.1.5. The municipality or its authorised agent shall only be obliged to provide a specific level of service requested if such service is currently being provided, provided that the municipality or its authorised agent has the resources and capacity to provide such level of service.

- 2.1.6. A customer may at any time apply to alter the level of services as elected in terms of the agreement entered into, provided that such level of service is available and that any costs and expenditure associated with altering the level of services is paid by the customer.
- 2.1.7. An application for services submitted by a customer and approved by the municipality or its authorised agent shall constitute an agreement between the municipality or its authorised agent and the customer, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- 2.1.8. In completing an application form for municipal services the municipality or its authorised agent will ensure that the document and the process of interaction with the owner, customer or any other person making such an application are understood by that owner, customer or other person and advise him or her of the option to register as an indigent customer.
- 2.1.9. In the case of illiterate or similarly disadvantaged persons, the municipality or its authorised agent must take reasonable steps to ensure that the person is aware of and understands the contents of the application form and shall assist him or her in completing such form.
- 2.1.10. Municipal services rendered to a customer is subject to the provisions of these bylaws, any other applicable bylaws and or related policies of the municipality and conditions contained in the agreement signed by such person.
- 2.1.11. If the municipality or its authorised agent: -
- (a) refuse an application for the provision of municipal services or a specific service or level of service;
 - (b) is unable to render such municipal services or a specific service or level on the date requested for such provision to commence; or
 - (c) is unable to render such municipal services or a specific service or level of services,

the municipality or its authorised agent shall, within fourteen (14) days, inform the customer of such refusal and/or inability, the reasons therefore and, if applicable, when the municipality or its authorised agent will be able to provide such municipal services or a specific service or level of service.

2.2.. APPLICATION FOR ELECTRICITY SERVICES (CONVENTIONAL METERS)

- 2.2.1 The Municipality shall whenever possible, combine any separate accounts of persons, who are owners and consumers that are liable for payment to the municipality, into one consolidated account.
- 2.2.2 All new application for services will only be accepted from the owner and will be linked to the rates accounts or name of the owner and not deemed a separate account, except for a block of flats where separate individual units accounts shall be opened under the name of the owner.

- 2.2.3 No application or amendment to the customer database can be processed unless legal documentation acceptable to the Chief Financial Officer or in his absence the Director Revenue has been produced in each instance;
- 2.2.4. With respect to a residential application, the owner of the property shall submit the following documents:
- i. Certified copy of identity document or passport;
 - ii. A letter from the transferring attorney confirming ownership or a copy of the Title Deed; and
 - iii. Ratable details or rate number of the property, if available.
 - iv. Proof of salary/income/bank statement
- 2.2.5 With respect to a commercial application the following documents must be produced:
- i. The Certificate of Registration or incorporation of the Company, CC, Trust, or Partnership.
 - ii Certified copy of the identity document or passport of one of the directors, members, trustees or owner in the case of a sole proprietor, who would open an account.
 - iii Letters of authority in the case of a partnership or sole proprietor.
 - iv. Personal sureties from one or more of the Directors / Members of a Company / CC / Trust or Partnership
 - v. VAT registration numbers if applicable
 - vi. Landlords consent / lease agreement / agents mandate between landlord / agent
 - vii. In the event of the company leasing the property a letter from the owner giving consent to the tenant to apply for Municipal services.
- 2.2.6. Customers who fail to apply and who illegally consume services will be subjected to punitive measures or such civil or criminal action as the Municipality deems appropriate in terms of Section 53 of the KwaDukuza Municipality Bylaws relating to Credit Control and Debt Collection.
- 2.2.7 Outstanding debt on the property, must be settled in full or suitable payment arrangements must be made by the owner of the property, before the new customer is registered.
- 2.2.8 New applications for services from customers who are in arrears with any other municipal accounts shall not be approved unless the arrears have been settled in full or suitable payment arrangements have been made by the applicant.

- 2.2.9 Any application for any supply of services to any premises must be made at least four working days prior to the service being required, in the prescribed format, and must comply with the conditions as determined by the Municipal Manager or his or her delegate from time to time.
- 2.2.10 No services shall be supplied unless and until application has been made by the owner and a service agreement in the prescribed format has been entered into and the deposit has been paid.
- 2.2.11 The municipality may require of an applicant to submit information and documentary proof so as to enable it to bring its records up to date and to assess the creditworthiness of the applicant and may require such information to be provided on oath.

3. SPECIAL AGREEMENTS FOR MUNICIPAL SERVICES

The municipality or its authorised agent may enter into a special agreement for the provision of municipal services with an applicant: -

- 3.1. within the area of supply; if the services applied for necessitates the imposition of conditions not contained in the prescribed form or these bylaws;
- 3.2. receiving subsidized services ; and
- 3.3. if the premises to receive such services is situated outside the area of supply, provided that the municipality having jurisdiction over the premises has no objection to such special agreement. The obligation is on the customer to advise the municipality having jurisdiction of such special agreement.

4. CHANGE IN PURPOSE FOR WHICH MUNICIPAL SERVICES ARE USED

Where the purpose for or extent to which any municipal service used is changed, the onus and obligation is on the customer to advise the municipality or its authorised agent of such change and to enter into a new agreement with the municipality or its authorised agent.

PART 2 APPLICABLE CHARGES

5. APPLICABLE CHARGES FOR MUNICIPAL SERVICES

- 5.1. All applicable charges in respect of municipal services, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest will be set by the Municipality in accordance with: -
- (a) Its tariff of charges;
 - (b) Its credit control and debt collection policy and any other applicable policy;
 - (c) Any bylaws in respect thereof; and

- (d) Any regulations in terms of national or provincial legislation.
- 5.2. Applicable charges may differ between different categories of customers, users of services, types and levels of service, quantities of service, infrastructure requirements and geographical areas.

6. AVAILABILITY CHARGES FOR MUNICIPAL SERVICES

The Municipality shall as prescribed in the tariff of charges, for municipal services, levy a monthly fixed charge, annual fixed charge or once-off fixed charge where such services are not consumed.

7. SUBSIDISED SERVICES

- 7.1. The Municipality may, from time to time, and in accordance with National Policy, but subject to principles of sustainability and affordability, by public notice, implement subsidies for a basic level of municipal service.
- 7.2. The Municipality may, in implementing subsidies, differentiate between types of household customers, types and levels of services, quantities of services, geographical areas and socio-economic areas.
- 7.3. Public notice in terms of subsection (1) must contain at least the following details applicable to a specific subsidy;
- (a) Household customers who will benefit from the subsidy.
 - (b) The type, level and quantity of municipal service that will be subsidized.
 - (c) The area within which the subsidy will apply.
 - (d) The rate (indicating the level of subsidy).
 - (e) The method of implementing the subsidy.
 - (f) Any special terms and conditions which will apply to the subsidy.
- 7.4. If a household customer's consumption or use of a municipal service is: -
- (a) Less than the subsidized service, the unused portion may not be accrued by the customer and will not entitle the customer to cash or a rebate in respect of the unused portion; and
 - (b) In excess of the subsidized service, the customer will be obliged to pay for such excess consumption at the applicable rate.
- 7.5. A subsidy implemented in terms of subsection (1) may at any time, be withdrawn or altered in the sole discretion of the Municipality, after: -
- (a) Service of notice as contemplated in Section 115 of the Act on the person affected by the Municipality's intention to consider such withdrawal or alteration; and

CONTINUES ON PAGE 130 - PART 2



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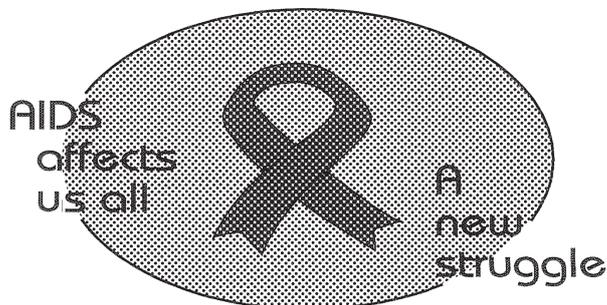
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- (b) Consideration by the Municipality of any comments or request received from the person affected.

- 7.6. Commercial customers shall not qualify for subsidized services.
- 7.7. Subsidized services shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

8. AUTHORITY TO RECOVER ADDITIONAL COSTS AND FEES

The municipality or its authorised agent has the authority to, notwithstanding the provisions of any other sections contained in these bylaws, recover any additional costs incurred in respect of implementing these bylaws against the account of the customer, including but not limited to: -

- 8.1. All legal costs, on an attorney and client scale and collection commission incurred in the recovery of any amount from customers;
- 8.2. The average cost incurred relating to any action taken in demanding payment from the customer or reminding the customer, by means of telephone, fax, e-mail letter or otherwise.

PART 3: PAYMENT

9. PAYMENT OF DEPOSIT

- 9.1. The municipality may from time to time, determine different deposits for different categories of customers uses of services, debtors, and different standards of services, which different deposits, shall be recorded and amended from time to time in the Credit Control and Debt Collection Policy of the municipality.
- 9.2. A customer shall on application for the provision of municipal services and before the municipality or its authorised agent may provide such services, pay a deposit, if the Municipality has determined a deposit in terms of its Credit Control and Debt Collection Policy and Tariff of Charges.
- 9.3. The municipality or its authorised agent may annually review a deposit paid in terms of subsection (9.2) and in accordance with such review require that an additional amount be deposited by the customer where the deposit is less than the most recent deposit determined by the Municipality.
- 9.4. If a customer is in arrears, the municipality or its authorised agent may require that the customer: -
 - (a) pay a deposit if that customer was not previously required to pay a deposit, and
 - (b) pay an additional deposit where the deposit paid by that customer is less than the most recent deposit.

- (c) The value of the original deposit paid or a guarantee held will be reviewed on a regular basis if an irregular and unacceptable payment pattern is identified.
- 9.5. Subject to subsection (9.7) below, the deposit shall not be regarded as being a payment or part payment of an account.
- 9.6. No interest shall be payable by the municipality or its authorised agent on any deposit held.
- 9.7. The deposit, if any, is refundable to the customer on termination of the agreement, provided the customer is not in arrears.
- 9.8. Deposits as prescribed in the tariff of charges will be due and payable on application of new customers and subject to review upon the movement of existing customers to a new address.
- 9.9. At the time of registration for a municipal service, a cash deposit, a bank cheque, an electronic fund transfer or a ~~bank guaranteed cheque~~ will be required based on the following criteria:

9.9.1 Property Owners

- a) Owners are requested to pay a consumption deposit as per the tariff of charges as approved by Council which reads as follows:
- “three months projected consumption value; which can be reduced to one month’s consumption value should the owner commit to direct debit payments at the time of application “ or
- b) Property owners may provide a guarantee from a Bank in lieu of a cash deposit but no application will be processed until either cash, or a guarantee is provided.

9.9.2 Tenants

Commercial tenants who wish to register for electricity consumption will be required to pay a deposit based on minimum three months consumption value at the time of application or as per the tariff of charges as approved by Council and will not be able to reduce this amount by committing to direct debit payments. They may provide a guarantee from a Bank in lieu of a cash deposit but no application will be processed until either the required payment or a guarantee is provided.

This provision does not apply to social housing tenants.

9.9.3. Increase in Deposits

- 9.9.3a The value of the original deposit paid or a guarantee held will be reviewed, on a regular basis, if an irregular and unacceptable payment pattern is identified. The customer shall be notified in writing of the revised deposit.

- 9.9.3b The deposit held shall utilized to settle the arrear account after final account has been rendered or shall be utilized to cover the cost of the prepaid meter where the customer has been required to convert to the prepayment system due to arrears.
- 9.9.4.c where the account is in arrears for more than 60 days the deposit shall be increased by three months average consumption.

10. METHOD FOR DETERMINING AMOUNTS DUE AND PAYABLE

- 10.1. The municipality or its authorised agent shall in respect of municipal services that are metered, endeavor to, within available financial and human resources, read all customer connections, on a regular basis, subject to subsection (10.2).
- 10.2. If a service is not measured, a municipality or its authorised agent may, notwithstanding subsection (10.1), determine the amount due and payable by a customer, for municipal services supplied to such a customer by calculating: -
- (a) The shared consumption, and, if not possible;
 - (b) The estimated consumption
- 10.3. If services are metered, but it cannot be read due to financial and human resources constraints or circumstances out of the control of the municipality or its authorised agent, and the customer is charged for an average consumption the account following the reading of the metered consumption must specify the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment.
- 10.4. Where in the opinion of the municipality or its authorised agent it is not reasonably possible or cost effective to meter all customer connections and/or read all a metered customer connections within a determined area, the Municipality may, on the reconnection of the municipality or its authorised agent, determine a basic tariff (flat rate) to be paid by all the customers within that area, irrespective of actual consumption.
- 10.5. The municipality or its authorised agent must inform customers of the method for determining amounts due and payable in respect of municipal services provide which will apply in respect of their consumption or supply zones.

11. PAYMENT FOR MUNICIPAL SERVICES PROVIDED

- 11.1. A customer shall be responsible for payment of all municipal services consumed by him/her or it from the commencement date of the agreement until his/her or its account has been settled in full and the municipality or its authorised agent must recover all applicable charges due to the municipality.
- 11.2. If a customer uses municipal services for a use other than which it is provided by the municipality or its authorised agent in terms of an agreement and as a consequence is charged at a rate lower than the applicable rate the municipality or its authorised agent may make an adjustment of the amount charged and recover the balance from the customer.

- 11.3. If amendments to the applicable charge become operative on a date between measurements for the purpose of rendering an account in respect of the applicable charges and the date of payment, :-
- (a) It shall be deemed that the same quantity of municipal services was provided in each period of twenty-four hours during the interval between the measurements; and
 - (b) Any fixed charge shall be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

12. FULL AND FINAL SETTLEMENT OF AN ACCOUNT

- 12.1. Where an account is not settled in full, any lesser amount tendered and accepted shall not be deemed to be in final settlement of such an account.
- 12.2. Subsection (12.1) shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement, unless the municipal manager or the manager of the municipality's authorised agent made such acceptance in writing.

13. RESPONSIBILITY FOR AMOUNTS DUE AND PAYABLE

- 13.1. Any amount due to the municipality for municipal service fee, surcharge on fees and any other municipal taxes and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.
- 13.2. Accordingly, all such municipal debts shall be a charge upon the property and shall be payable by the owner of the property, notwithstanding the provisions of any other sections of the bylaws.
- 13.3. Any person who purchases or otherwise acquires or leases immovable property from the Municipality shall be deemed to be the owner thereof from the date of such purchase or other acquisition by him or from the commencement of such lease, as the case may be.
- 13.4. Where the property is owned by more than one person, each such person shall be liable jointly and severally for all Municipal debts charged on the property.
- 13.5. Owners shall be held jointly and severally liable, with their tenants who are registered as customers for municipal services.
- 13.6. Tenants and/or agents shall be held liable for arrear rates restricted to the rental in terms of Section 28 of the Municipal Property Rates Act No 6 of 2004.,
- 13.7. When electricity consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised the relevant charges shall be raised against the registered owner.
- 13.8. When a customer terminates a consumption account and no new customer registers, a property is deemed to be unoccupied.. The owner shall be responsible for the account.

13.9 When the property is owned by a company or close corporation, each member or director shall be liable jointly and severally for all municipal debts charged on the property.

13.9 **DECEASED ESTATES**

13.9.1 The Executor of a deceased estate, in his capacity as such, shall be liable for payments of all debts on the property.

13.9.2 Where the property was previously governed by Black Estates Act, and the estate not yet been finalized, the occupants of the property shall be regarded as "Deemed Owners for the purposes of the account only, and shall be responsible for payment of consolidated accounts (including rates).

13.9.3. Deemed ownership does not confer any rights to the occupants other than the liability to pay the accounts.

13.9.4 failure to inform the Municipality that the property forms part of the deceased estate may result in the disconnection of services, until an executor has been appointed.

14. **DISHONOURED PAYMENTS**

Where any payment made to the Municipality or its authorised agent by negotiable instrument, is later dishonored by the bank, the municipality or its authorised agent:

- (a) Will recover all applicable charges
- (b) Shall regard such an event as a default on payment and shall disconnect services without notice and/or reserves the right to take legal action
- (c) shall require all future payments to be made by cash or electronic fund transfer in an event where more than two cheque payments from the debtor have been dishonoured by the bank.

15. **INCENTIVE SCHEME**

The Municipality may institute incentive schemes to encourage prompt payment.

16. **PAYPOINTS AND APPROVED AGENT**

16.1. A customer must pay his/her or its account at pay-points, designated by the municipality or its authorised agent from time to time, or at approved agents of the municipality or its authorised agent.

16.2. The municipality or its authorised agent shall inform a customer of the location of the designated pay-points and approved agents for payment of accounts.

PART 4: ACCOUNTS**17. ACCOUNTS**

- 17.1. Accounts shall be rendered monthly to customers at the address last recorded with the municipality or its authorised agent. The customer may receive more than one account for different municipal services if they are accounted for separately.
- 17.2. An error or omission or failure to receive or accept an account does not relieve a customer of the obligation to pay an amount due and payable.
- 17.3. Accounts must be paid by no later than the last date of payment specified in such account.
- 17.4. a) Assessment rates shall be billed on a monthly basis in terms of Section 64 (2) (b) of MFMA.
- b) annually, as may be agreed to with the owner of the property on or before a date as determined by the Municipality.
- c) The Municipality shall recover a rate annually for National and Provincial Government owned properties.
- 17.5. Monthly rates shall be levied in eleven equal installments, and subject to change as determined by the Council from time to time.
- 17.6. The Municipality will undertake to have the accounts mailed to all customers. However, failure to receive or accept accounts does not relieve a customer of the obligation to pay any amount due and payable. The onus is on the customer to make every effort to obtain a copy account for payment.
- 17.7. The Municipality or its authorised agent must, if administratively possible, issue a duplicate account to a customer on request. Landlords may request copies of their tenants accounts.
- 17.8. The Accounts shall reflect at least:
- a. The services rendered
 - b. The consumption of metered services or average, or estimated consumption.
 - c. The applicable charges
 - d. The amount due
 - e. property rates payable
 - d. Surcharges
 - g. Value Added Tax
 - h. Any rebates

- i. The adjustments, if any, to metered consumption that has been previously estimated.
- j. The arrears
- k. The interest payable on arrears
- l. The final date of payment
- m. The methods, places and approved agents where payment may be made.
- n. Administration charges
- o. Payments received.
- p. Period stipulated in the account.
- q. Any subsidies.
- r. any other adjustments

17.9. The Municipality shall post the rates assessment.

17.10 **READING OF CREDIT METERS**

- 17.10.1 Unless otherwise prescribed, credit meters shall normally be read at intervals of one month and the fixed of minimum charges due in terms of the tariff shall be assessed accordingly. The Municipality shall not be obliged to effect any adjustments to such charges.
- 17.10.2 If for any reasons the credit meter cannot be read, the Municipality can render an estimated account. The electricity energy consumed shall be adjusted in a subsequent account in accordance with the electricity actually consumed.
- 17.10.3 When a consumer vacates a property and a final reading of the meter is not possible, estimation may be made and the final account rendered accordingly.
- 17.10.4 If special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee.

18. **PAYMENT OPTIONS**

- 18.1 The Municipality must endeavor to establish a payment network to ensure that, wherever practically possible, customers in receipt of accounts have access to a payment site.
- 18.2. Customers must ensure that payments made through third party agents (post-office: easy pay; etc) are made at least 3 working days prior to the due date. The Municipality will not accept responsibility for delays in receipt of payments.
- 18.3. The methods of payment shall be pronounced by the Council from time to time.

19. CASH ALLOCATION PRIORITIES

19.1 When part payments are received against a Consolidated Account, the Municipality shall allocate such payments first to any due or unpaid interest charges; secondly, to satisfy any due or unpaid fees or charges; and thirdly, to reduce the amount of the principle debt in terms of the table of priorities as determined from time to time and as set out in the Credit Control and Debt Collection Policy

PRIORITY NO.	STATUS	SERVICE
1	Arrears	All other Municipal charges including administration charges and penalties.
2	Arrears	Additional Deposits
3	Arrears	Sundry Charges
4	Arrears	Housing Charges
5	Arrears	Refuse Charges
6	Arrears	Rates
7	Arrears	Electricity Charges
8	Current	All other Municipal charges including interest, collection charges and penalties.
9	Current	Additional Deposits
10	Current	Sundry Charges
11	Current	Housing Charges
12	Current	Refuse Charges
13	Current	Rates
14	Current	Electricity Charges
15	Vat	Will be allocated in terms of the Vat Act of 1991

20. PROPERTY RATES AND CONSOLIDATED BILLING

20.1. If one account is rendered for more than one municipal service and rates provided, the amount due and payable by a customer constitutes a consolidated debt, and any payment made by customer of an amount less than the total

amount due, will be allocated at the discretion of the municipality between service debts.

20.2. Property rates shall form part of the Consolidated Bill

20.3 Arrear rates or any other consolidated debt may result in disconnection of services.

20.4 The Municipality may, in terms of Section 28 of the Municipal Property Rates Act, recover arrear rates from tenants / managing agents in occupation of the relevant property but only to the extent of the rent payable or amount due by the tenant but not yet paid to the owner of the property. This does not preclude further legal action against the owner.

20.5 The Municipality may make application to court for judgment, costs and the summary sale of the property in appropriate circumstances. Legal costs and collection commission shall be debited to the relevant debtors accounts. In the event of the Municipality through its internal collection procedure recovering the debt from the customer, the customer shall be liable for any disbursements and collection commission.

20.6 Once judgment is obtained the properties will be advertised and sold through public auction.

20.7 The municipality shall follow the legal process to recover any portion of the debt outstanding for more than forty five (45) days.

20.8. If account is rendered for only one municipal service provided, any payment made by a customer of an amount less than the total amount due, will be allocated at the discretion of the municipality.

20.9. A customer may not elect how an account is to be settled if it is not settled in full or if there are arrears.

21. LEGAL ACTION

21.1 Where an account rendered to a customer remains outstanding for more than sixty (60) days the Chief Financial Officer or in his absence the Director Revenue shall :

- a) Hand the customer's account over to a debt collector or an attorney for collection.
- b) Institute legal proceedings through its authorised agents or attorney against a customer for the arrears; or

21.1.1 if the Chief Financial Officer is of the opinion that the institution or continuation of proceedings for the recovery of any amount shall be fruitless or not cost effective the Chief Financial Officer may recommend the Council that such action not be commenced or discontinued or terminated.

21.1.2. Legal steps shall be taken to collect arrears such as in the following cases;

- Where cut-off action yielded no satisfactory result;
- Where no cut off action is possible due to the nature of the services for which the account has been rendered

21.1.3 A pre-investigation into the account and debtor details is carried out before the preparation of a summons. The data of an appointed Credit Bureau is utilized. Telephonic or other forms of contact may be made with the debtor, at the municipality’s discretion, prior to the issue of summons and / or other legal proceedings;

21.1.4 The following table shall be utilized to show the thresholds in respect of the debt value and the recovery action therein:

DEBT VALUE RAND	RECOVERY ACTION
Up to R500	Letter of Demand and/or Summons at the discretion of the C.F.O.
from R501 to R1000	Letter of Demand - Proceed to the issue of summons should the debtor appear to be of sufficient financial stature. Any further legal action is at the discretion of the Chief Financial Officer or the Director Revenue in his absence.
From R1000 onwards	Letter of Demand – Proceed to the issue of summons. Assess the likely financial stature of the debtor, incur tracing costs where appropriate and proceed along the legal route reviewing at each stage whether it is viable to continue incurring costs.

21.1.5 If the Chief Financial Officer or in his absence the, Director Revenue is of the opinion that the institution or continuation of proceedings for the recovery of any amount shall be fruitless or not cost-effective, the Chief Financial Officer may recommend to the Council that such action be not commenced, or be discontinued or terminated.

21.1.6 The council shall then approve the write-off of such arrears, if it is satisfied with the reasons provided.

21.2 All Offers of Compromise, out of court settlement offers and/ or settlement offers for full and final payment received are to be approved by the Council.

- 21.3 The Municipality may enforce any other rights or exercise any power conferred on it by any other legislation.
- 21.4 The Municipality may through its own internal policy proceed to recover all outstanding debt and charge disbursements and administration and collection charges.
- 21.5 The Chief Financial Officer shall be authorised to approve the writes off, of all irrecoverable debts up to the value of R500.00, only on condition that satisfactory reason has been provided.

21.6 COMPLIANCE AND ENFORCEMENT

- 21.6.1 Violation of or non-compliance with this policy will give a just cause of disciplinary steps to being taken.
- 21.6.2 It will be the responsibility of Accounting Officer to enforce compliance with this policy.

22. TERMINATION / TRANSFER OF ELECTRICITY ACCOUNTS

- 22.1. A customer who intends to terminate or transfer a municipal service shall notify the Municipality in writing within 14 days prior to the date of termination or transfer and shall also furnish the Municipality with the forwarding address.
- 22.2 A final reading shall be recorded on the termination date and the customer will be billed for the consumption.
- 22.3 If a current tenant terminates his/her account, the meter and the outstanding debt on that property automatically reverts back to the owner account and no further applications for tenants will be accepted
- 22.3. The deposit shall be appropriated against the account. Should a credit balance remain on the account, after appropriation of the deposit, such credit balance may be refunded to the customer or transferred to the new municipal service.
- 22.4. A final account that remains unpaid for a period of 30 days shall be:-
- (a) transferred to that ~~account holder's~~ owners current account;
 - (b) recovered through our debt collection procedure.
- 22.5 No application for services shall be processed until arrear debt is settled or an arrangement has been made

22A. REFUNDS

- 22 A (1).1 Refunds shall only be issued, provided that all the customers' accounts are paid in full, credits on accounts shall be refunded, on application, as follows:
- a) To the account holder, for rates and services account;
 - b) To the owner, where the owner pays the tenants account;

c) To the conveyancer to pay the buyer or seller, on transfer of a property, this includes any credits that may arise from an objection appeal outcome or an over payment of the account.

23. AGREEMENT WITH EMPLOYERS

The Municipality in terms of section 103 of the Act may with the consent of a person liable to the municipality for the payment of rates or other taxes or fees for municipal services, enter into an agreement with that person's employer to deduct from the salary or wages of the person-

- 23.1. Any outstanding amounts due by that person to the Municipality; or
- 23.2. Such regular monthly amounts as may be agreed.
- 23.3. The onus to introduce such arrangements remains with each employer/ employee

24. STAFF IN ARREARS

- 24.1. Item 10 of Schedule 2 to the Act states : - "A staff member of the Municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months and a municipality may deduct any outstanding amounts from a staff member's salary after this period.
- 24.2. The Municipality shall liaise with the relevant staff and their departmental representatives and issue the necessary salary deduction instruction where appropriate, in terms of the Provisions of the Basic Conditions of Employment Act and other legislation.
- 24.3. No special treatment shall be afforded to staff member whose accounts are in arrears.
- 24.4. Once the arrears or debt is settled in full, the account will automatically revert to staff group account.

25. COUNCILLORS IN ARREARS

A councillor may not be in arrears to the Municipality for rates and service charges for a period longer than 3 months in terms of Section 12A of the Act.

- 25.1. The Municipality, upon consultation with the Councillor, shall make appropriate arrangements to have the arrears paid.
- 25.2. The Municipality shall liaise with the relevant Councillor and the Speaker, in order to issue the necessary salary deduction instruction where appropriate.
- 25.3. No special treatment shall be afforded to the Councillor whose accounts are in arrears.
- 25.4. Once the arrears or debt is settled in full, the account will automatically revert to the group account.

PART B – DEBT COLLECTION PROCEDURES

B1. Municipal accounts shall be paid on the due date as indicated on the account and non-payment of accounts will result in debt collection action.

PART 5: QUERIES, COMPLAINTS AND APPEALS**26. ARREAR MESSAGE ON ACCOUNTS**

26.1 When a monthly account is in arrears, the next account will clearly highlight an appropriate reminder message.

27.1 CONVENTIONAL ELECTRICITY METERS

27.1.1 Disconnection orders are issued after final payment date. Where arrears are brought forward, the above may not apply.

27.1.3 If an occupier account appears on the disconnection list twice, the account is automatically transferred to the owner account iro S118(3), S102(1) (a) of MSA and S3.1 of the credit control policy

27.1.4 Re-connection instructions are issued as soon as:

- a) payment is received at an on-line facility:
- b) proof of payment at an off-line facility is received; or

c) Payment of 40% of the arrears together with the current account is received irrespective of the final payment date of the current account which must include the disconnection and reconnection fee. Thereafter payment of the arrear balance plus the current installment shall be paid over a maximum period of 6 months. No further arrangements will be entertained unless such period may be extended at the discretion of the Chief Financial Officer.

Re-connection of the electricity services is not guaranteed to be effected within the same day of payment.

27.1.5. Follow-up meter readings within one month are taken for all customers who fail to respond to the physical disconnection to ensure that the supply has, in fact, been disconnected and no payment received.

27.1.6 Where instances of illegal reconnection of supplies are detected by KwaDukuza Municipality, the supply is again disconnected by a more stringent method. Reconnection thereafter will only be effected if the relevant penalty tariff charges / disconnection fees together with any arrears are paid in full together with the current account.

- 27.1.7 Further instances of tampering will result in the disconnection of the electricity supply and the removal of the relevant metering and connection equipment. Customers in such instances will then need to pay for the full costs of the new connection of a prepaid meter and all outstanding arrear charges before installation of the prepaid meter.
- 27.1.8. Electricity metering and connection equipment remain the property of the Municipality at all times and anyone involved in instances of tampering, damaging or theft thereof is committing a criminal offence and will be liable for prosecution and or civil claims/penalties by the Municipality.
- 27.1.9 The owner of the property shall be notified if the tenant has been disconnected for the second time

27.2 PREPAID METERS

- 27.2.1 Applications for prepaid electricity meter shall only be accepted from the Owner of the property.
- 27.2.2 The owner shall ensure that:
- a) All applications are processed at the electricity department at KwaDukuza Municipality.
 - b) The applicant is to obtain from the enquiry clerk at the Finance Department the full balance of any amount due, owing and payable in respect of any municipal account
 - c) The applicant shall pay the outstanding municipal account in full
 - d) Once payment has been made, the enquiries clerk at the Finance department shall issue a certificate to the customer reflecting that outstanding electricity has been paid
 - e) The consumer shall only be able to purchase the prepaid meter from the electricity department after the certificate has been handed to the Electricity department together with the quoted price.
 - f) Councils preferred metering system for domestic and certain business consumers is the prepayment metering system.
 - g) Arrear debt of consumers with prepayment electricity meters can be dealt with in terms of debt collection facilities available on the prepayment electricity system.

27.3 CREDIT AGREEMENTS

- 27.3.1 The Municipality may, at its discretion, enter into a Credit Agreement with customers in arrears for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, duties and community charges. Such agreement must include maintenance of the current monthly charges.
- 27.3.2 The owner of a property must consent in writing to a Credit Agreement with the municipality and his tenant, whereby he acknowledges that he

- is jointly and severally liable for all arrears should his tenant default.
- 27.3.3 Re-connection and disconnection fees, where applicable, must be paid in full before any Credit Agreement can be entered into.
- 27.3.4 By entering into a Credit Agreement the customer acknowledges that failure to meet any installment will result in prompt disconnection action being taken. This does not preclude any legal action that the Municipality may take.
- 27.3.5 Credit Agreements negotiated on business accounts shall require the agreement to be signed by a duly authorised Director / Member of the company and or close corporation. Such director and member shall be obliged to sign a personal surety to secure the payment of the company and or close corporation's liability to the Municipality. Under no circumstances are agreements to be completed without such sureties.
- 27.3.6 Credit agreements negotiated with Trusts shall require such agreement to be signed by a duly authorised trustee of the trust. However, all trustees are obliged to secure the indebtedness of the trust by signing a personal surety jointly and severally to secure the payment of the trusts liability to the Municipality. Under no circumstances are agreements to be completed without such sureties.
- 27.3.7 Details of the original amount of the Credit Agreement, the monthly instalments, and the current balance outstanding thereon, are included on each subsequent account until such time as the Credit Agreement is liquidated by full payment of the debt.
- 27.3.8 Credit Agreements may **not** be granted where:
- a. Arrears have arisen due to dishonoured cheques, direct debit reversals etc;
 - b. Instances of repeat meter tampering have been identified, or
 - c. The services have been removed.
- 27.3.9 Telephonic and other electronic request for payment. Council shall authorise credit control to:-
- a) Telephone customers between the hours of 18h00 to 20h00 to advise of the arrear account and request payment
 - b) To engage the services of a service provider to forward SMS messages to all customers in arrears

PART 6: ARREARS**28. INTEREST /PENALTIES/ ADMINISTRATION CHARGES ON OUTSTANDING ACCOUNTS**

The Municipality may in terms of Section 97(1)(e) read with Section 75A (as amended by G.G. No. 24149 dated 05/12/2002) of the Act shall:

- 28.1 Charge interest and or penalties as specified in the tariff of charges from time to time.
- 28.2 Charge 10% administration charges raised on the outstanding rates for the current year.:
- (a) On annual rates payers:
 - 60 days succeeding the final due date.
 - (b) Monthly rate payers:
 - administration charges shall be raised on the 1st of July on all outstanding rates not paid as at the 30th June each year
 - (c) On monthly rates accounts that have been changed to annual billing as a result of arrears, a 10% administration charge will be raised 60 days after that change.
- 28.3 Charge all costs incurred in the debt collection commission (if applicable) once the debt has been handed over for collection.
- 28.4 The general power to levy and recover administration charges and interest on any outstanding amount shall be determined by the municipality by resolution passed by the Municipal Council from time to time.

29. DEBT COLLECTION

- 29.1. Municipal accounts must be paid on the due date as indicated on the account and non-payment of accounts will result in debt collection action. Where an account rendered to a customer remains outstanding for more than 60 (sixty) days the municipality or its authorised agent may: -
- (a) Institute legal proceedings against a customer for the arrears; or
 - (b) Hand the customer's account over to a debt collector or an attorney for collection.
- 29.2. A customer will be liable for any legal fees, cheque costs, postal charges, short message services (sms) charges, administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit, as may be determined by the Municipality from time to time.
- 29.3 In the event of an occupier account being in arrears for more than 30 days, the registered owner will be informed of the arrears on the account and Council's intention of terminating the account and services and linking the meter to the owner's account. The debt will revert to the owner's account.
- 29.4. In the event of occupier final account being in arrears for more than 30 days, the registered owner will be informed of the arrears on the account and Council's

intention of terminating the account and linking the meter to the owner's account. The debt will thereafter revert to the owner's account.

PART 7: ARRANGEMENT FOR THE PAYMENT OF ARREARS

30. ARRANGEMENT

- 30.1. A customer may enter into an arrangement with the Municipality for the repayment of an arrear account by concluding:
- (a) An acknowledgement of debt duly signed by both parties.
 - (b) A Consent to judgment.
 - (c) An emolument attachment order.
 - (d) Acknowledge that interest will be charged at the prescribed rate.
 - (e) Acknowledge that if the arrangements being negotiated later are defaulted on, disconnection of electricity or blocked from buying electricity on the Prepayment System will follow immediately, as will legal proceedings. Acknowledge liability of all legal costs incurred.
 - (f) Only account holders with positive proof of identity or an authorised agent with a power of attorney will be allowed to enter into an arrangement for the payment of arrear accounts in instalments.
 - (g) Failure to honour the agreement will lead to immediate blocking or restriction from purchasing prepaid electricity, disconnection of electricity, as well as legal action.
 - (h) Prior concluding the agreement the owner shall be compelled to produce the prepaid electricity card and or conventional meter number.
- 30.2. A customer shall be charged interest on an arrear account at the prescribed rate of interest.
- 30.3. Customers with electricity service accounts in arrears shall consent to the conversion of the electrical meter to a prepaid meter should the deposit held be less than the cost of conversion. The cost of such prepaid meter shall be paid in full before reconnection.
- 30.4. The municipality or its authorised agent shall require a customer to first pay its current account before entering into an agreement to pay the arrears and shall pay every current municipal account in full and on time during the period over which such arrangement extends.
- 30.5. The municipality reserves the right to:
- 30.5.1. Raise the security deposit requirement of such customer who enters into an agreement in terms of clause 30.1. above, and

- 30.5.2. Demand that a Deed of Suretyship be completed.
- 30.6. Electricity/Consolidated Bill: Each defaulting account holder will be allowed to make a first Payment of 40% of the arrears, together with current account, irrespective of the final payment date of the current account, plus the disconnection and re-connection fees. Thereafter, payment of the balance plus current instalment shall be paid over a maximum period of 6 months.
- 30.6.1 The Chief Financial Officer or in his absence the Director Revenue shall be authorized to vary the arrangement as stipulated in clause 18.6 above, at his discretion.
- 30.7 Reconnection of the electricity services is not guaranteed to be effected on the same day of payment.

31. Arrangement for Payment of Arrear Accounts

- 31.1 The Municipality may, at its discretion, enter into a Credit Arrangement to Pay with customers in arrears for ~~unmetered~~ municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, duties and community charges. Such agreement must include maintenance of the current monthly charges.
- 31.2 All services must be consolidated into one account before an acknowledgement of debt is entered into.
- 31.3 The owner of a property must consent in writing to a Credit Agreement with the municipality and his tenant, whereby he acknowledges that he is jointly and severally liable for all arrears should his tenant default and that :
- 31.3.1 Re-connection and disconnection fees, where applicable, must be paid in full before any Credit Agreement can be entered into.
- 31.3.2 By entering into an Arrangement to Pay the customer acknowledges that failure to meet any instalment will result in prompt disconnection action being taken or will be blocked from buying electricity on the Prepayment System and the balance of the arrear account together with current account. Interest raised on such account will immediately become due and payable to the Municipality. This does not preclude any legal action that the Municipality may take.
- 31.3.3 Arrangement to Pay negotiated on business accounts shall require the agreement to be signed by a duly authorized Director / Member of the company and or close corporation. Such director and member shall be obliged to sign a personal surety to secure the payment of the company and or close corporation's liability to the Municipality. Under no circumstances are agreements to be completed without such sureties.
- 31.3.4 Arrangement to Pay negotiated with Trusts shall require such agreement to be signed by a duly authorized trustee of the trust. However, all trustees are obliged to secure the indebtedness of the trust by signing a personal surety

jointly and severally to secure the payment of the trusts liability to the Municipality. Under no circumstances are agreements to be completed without such sureties.

31.3.5 Details of the original amount of the Credit Agreement, the monthly installments and the current balance outstanding thereon are included on each subsequent account until such time as the Credit Agreement is liquidated by full payment of the debt.

31.7 Arrangement to Pay may not be granted where:

- a. Arrears have arisen due to dishonored cheques, direct debit reversals etc;
- b. Instances of repeat meter tampering have been identified, or
- c. The services have been removed.

31.8 Telephonic and SMS request for payment. Council shall authorize credit control to:-

- a) Telephone customers between the hours of 18h00 to 20h00 to advise of the arrear account and request payment
- b To engage the services of a service provider to forward SMS messages to all customers in arrears

32. DEBT ARRANGEMENT

Customers have been categorised into the following income categories:-

- Indigent (Gross household income of less than the monthly amount determined by Council)
- Not indigent (Gross household income of more than the monthly amount determined by Council for indigent)
- Non-domestic (excludes Government Departments)
- Government Departments.

32.1 The principle of limited vending to encourage customers with arrears to buy a pre-determined amount of electricity per month, will apply.

32.2 The principle that the monthly account must be paid, will apply.

32.3 Indigent Customers (Prepaid electricity meter)

- (a) Indigent customers with arrears will be put on the information block, which will notify them that a purchase can be made but that after the purchase the information block will be converted to total block, and that the total block can only be removed after the necessary payment arrangement have been made with Council.

- (b) Indigent consumers will be required to pay 40% of the arrears, together with current monthly instalment, irrespective of the final payment date of the current account, plus payment of the balance of the arrears shall be paid over a maximum period of 36 months.
- (c) The total block can only be removed after the necessary payment arrangements have been made with Council
- (d) Every time the consumer makes a purchase, 40 percent of the amount tendered for the purchase of electricity shall be allocated towards arrear debt. This type of block is another method to collect arrear debt and not the current account. A percentage of each purchase of electricity is allocated towards the debtors arrear balance and debtors are also blocked from buying electricity for monthly charges.
- e) Indigent customers will be allowed to purchase average monthly electricity consumption of such consumer with the maximum amount of electricity as determined from time to time.

32.4 Arrangements by indigent customers(Conventional Electricity Meter)

- (a) Indigent customers may have their credit electricity meters converted to prepaid electricity meters at Council's discretion. **All cost of conversion shall be paid by the customer.**
- (b) Arrangement for the payment of debt shall be payment of 40% of the arrears, together with current monthly instalment, irrespective of the final payment date of the current account, plus payment of the balance of the arrears shall be paid over a maximum period of 36 months.
- c The Chief Financial Officer or in his absence the Director Revenue shall be authorised to vary the arrangement as stipulated in clause 30.6 above, at his discretion.

32.5. Non-Indigent Customers

- (a) Non-indigent customers with arrears will be put on the information block, which will notify them that a purchase can be made but that after the purchase the information block will be converted to total block, and that the total block can only be removed after the necessary payment arrangement with Council.
- b) Payment of 40% of the arrears, together with current monthly installment, irrespective of the final payment date of the current account, plus payment of the balance of the arrears shall be paid over a maximum period of 6 months.

- c) The Chief Financial Officer or in his absence the Director Revenue shall be authorised to vary the agreement as stipulated in Clause 30.6 above, at his discretion.

33. Debt arrangement – Prepayment system

- 33.1 The prepayment electricity system implemented by Council has a debt management facility.

The Debt Management facility provides various blocking types, which can be utilised to collect arrear debt.

- 33.2 The various blocking types can be described as follows:

- **Information/Partial Block**

The system will inform the consumer that a purchase can be made but that after the purchase a total block will be put on the consumers account automatically by the system. To unblock the system:-

The arrear debt must be paid in full, or Arrangements must be made to pay off the arrear debt and the arrangements have been captured on the system.

- **Total Block**

The consumer is blocked from buying electricity due to arrear debt and can be unblocked when:-

The arrear debt is paid in full. Arrangements have been made to pay off the arrear debt and the arrangements have been captured on the system.

- 33.3 Minimum monthly instalment with monthly vend limit

The consumer arranges to pay a minimum monthly instalment and to purchase a limited amount of electricity to be purchased is to prevent consumer's from purchasing more than one month's electricity to avoid arrear payments. The minimum monthly instalment includes the consumer's monthly account plus a payment to arrears. If the consumer pays less than the minimum instalment the system will not allow purchase of electricity. If the consumer pays more, the additional amount is taken off the outstanding arrears, but the monthly instalment stays the same until his arrears are paid off.

- 33.4 Minimum weekly instalment with weekly vend limit

Same as 33.3 above but weekly instalments are arrangements with weekly limits on the amount of electricity to be purchased.

- 33.5 Percentage Blocking

Every time the consumer makes a purchase, 40 percent of the amount tendered for the purchase of electricity shall be allocated towards arrear debt. This type of block is another method to collect arrear debt and not the current account ~~but does not collect the monthly account~~. A percentage of each purchase of electricity is allocated towards the debtors arrear balance and debtors are also blocked from buying electricity for monthly charges.

34. BAD AND DOUBTFUL DEBT PROVISION

BAD AND DOUBTFUL PROVISIONS SHOULD BE CALCULATED AND PROVIDED IN THE ACCOUNTING RECORDS AS FOLLOWS:-

34.1. The provision for bad and doubtful debt will be calculated in terms of the relevant generally recognised accounting practices.

34A. DEBT RELIEF PROGRAMME

- 34.(A)(1) Council shall promote assistance to the poor by embarking on a debt relief programme. The indigent customer who cannot conclude an Acknowledgement of debt as per Council Credit Control and debt collection policy, shall adhere and comply with the following procedures:
- a) The indigent Customer shall be required to complete the income and expenditure form, in order to determine the minimum amount payable upfront when concluding the Acknowledgement of debt. All supporting documents shall be produced by an applicant, in order for Finance to conduct thorough system verification.
 - b) The acknowledgement of debt shall be approved only on condition that the system verification shall prove to be correct.
 - c) Upon approval of Acknowledgement of debt, the outstanding debt owed by indigent customer, shall not attract any interest and penalties, only on condition that the customer pays or maintains the current account

35. COPY OF AGREEMENT TO CUSTOMER

A copy of the agreement shall be made available to the customer.

36. FAILURE TO HONOUR ARRANGEMENT

In the event of a customer failing to comply with an agreement for the payment of arrears in installments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, (including legal costs) costs and penalties, including payment of a higher deposit will immediately become due and payable, without further notice and the municipality or its authorised agent may: -

- 36.1. Disconnect the customers electricity service, subject to the provisions of section 4.3.7 of nersa. 047-1-1999 issued by the National Electricity regulator as amended from time to time.
- 36.2. Legal action for the recovery of the arrears; and

36.3 Hand the customer's account over a debt collector or an attorney for collection.

37. RE-CONNECTION OF SERVICES

An agreement for the payment of an arrear amount in installments, entered into after the electricity services has been discontinued shall not result in the services being restored until:

37.1. The arrears, any interest thereon, administration fees, legal costs and any other costs and any penalties, including payment of higher deposit, are paid in full; or

37.2. In addition to any payments referred to in subsection 30.1. the customer shall pay the standard re-connection fee as determined by the municipality from time to time, prior to the reconnection.

38. RECOVERY THROUGH PREPAID METERS

If a customer is in arrears for any outstanding debt to the Municipality the customer shall be blocked from buying electricity until such time that the customer has made an arrangement to pay the arrear debt.

CHAPTER 3

RATES ASSESSMENT

39. AMOUNT DUE FOR ASSESSMENT RATES

39.1. The provisions of Chapter 3 shall apply in respect of the recovery of assessment rates.

39.2. All assessment rates due by owners are payable by fixed date as determined by the municipality in its credit control and debt collection policy.

39.3. Joint owners of property shall be jointly and severally liable for payment of assessment rates.

39.4. Assessment rates shall be levied in equal monthly instalments. When levied in equal monthly instalments the amount payable shall be included in the municipal account.

39.5. A property owner remains liable for the payment of assessment rates included in municipal accounts, notwithstanding the fact that: -

- (a) The property is not occupied by the owner thereof; and/or
- (b) The municipal account is registered in the name of a person other than the owner of the property.
- (c) The furnishing of an incorrect address.

40. **MUNICIPAL CLEARANCE CERTIFICATES**

Subject to Sections 118(1) and (1A) of the Act, the following shall apply to the issue of a Municipal Clearance Certificate for the purpose of effecting transfer of a property to a new owner.

40.1 Assessments

40.1.1 Application shall be made by the Conveyancing Attorney, in the prescribed format by providing the following information in respect of the property in question:

- i. Present owner of the property;
- ii. Property description;
- iii. Physical address;
- iv. Rates Account No's;
- v. Electricity Account No's. (Or electricity meter no's.);
- vii Purchasers details; identity numbers and postal address and Purchasers domicilium citandi et executandi;
- viii With respect to Vacant Land, an Affidavit from the seller that the property does not have a electricity supply connection and an undertaking from the purchaser that should a electricity supply connection be discovered on the property and such account is in arrears, then the purchaser accepts liability for such arrears.

Copies of all the accounts must accompany the application. If the relevant information is not provided, the application will be returned to the conveyancer.

40.1.2 Every effort will be made to issue an assessment within five working days of receipt of application. Certain delays may be experienced in respect of:

- i. New sub-divisions;
- ii. Pending building plans;
- iii. Special investigations.

With respect to the aforesaid, the following is required to be submitted to the consultant valuers:

- a. a copy of the survey diagrams/general plans;
- b. a copy of the sale agreements;
- c. a copy of the relevant proclamation notices;
- d. seller contact details; and
- e. building plans on request.

Conveyancers will be notified of possible delays.

40.1.3. The assessment shall include the following:

- i. Rates for the balance of the year (to 30 June) still outstanding.

Where

application is made after 01 January the assessment shall be for a period of six (6) months until the rate increases for the new financial year have been finalized and approved. After the 01st March the assessment will revert to the end of the new financial year.

- ii Electricity - Actual balance outstanding at date of assessment being approved less any deposit on hand.
- iii Other - Actual balance outstanding at date of application.
- iv Municipal Certificate Fee- As per the prescribed tariff.

40.1.4 Period of validity

The assessment shall remain valid for a period of 60 days. If payment has not been received within this period, a re-assessment may be required and payment of a further municipal clearance fee will apply.

40.1.5 The onus rests with the seller to ensure:

- i that all buildings on the property are in accordance with the building plans approved by the Municipality;
- ii the premises in question are being utilized in accordance with its zoning;
- iii that all outstanding accounts accruing to the Municipality in respect of the property is fully paid.

40.1.6 Any discrepancies in respect of the above may result in delays in issuing of a clearance certificate, and in addition may result in levying of additional backdated rates and / or penalties and / or service charges.

40.1.7 Any amounts paid shall be appropriated to the oldest debt first.

40.1.8 Municipal Clearance Certificates

- i Every effort will be made to issue a Municipal Clearance Certificate within five days of receiving payment;
 - ii Payment on the assessment must be made in cash or by bank guarantee cheque;
 - iii An unconditional letter of undertaking maybe accepted in lieu of a cash payment in fully motivated exceptional circumstances, and subject to the written approval of the Chief Financial Officer or in his absence the Director Revenue of the Municipality.
 - iv The letter of undertaking must be :
 - Issued by the Conveyancing Attorney, in the prescribed format;
 - Unconditional;
 - For the full amount outstanding; and
 - For a specified period of time acceptable to the Municipality
- 40.1.8.1 Bank Guarantees shall not be accepted.
- 40.1.8.2 An Attorney's Trust cheque may be accepted in lieu of cash payment.
- 40.1.8.3 There shall be no refunds on the cancellation of a sale.
- 40.1.8.4 The Certificate shall be valid for a period of 30 days from date of issue.
- 40.1.8.5 No certificate , in terms of Section 118 of the Systems Act shall be issued where the property owner has not complied with any relevant legislation, policy or agreement relating to the property in question.

41. DEFAULT IN PAYMENT OF MONTHLY INSTALMENTS

In the event of the ratepayer failing to pay any three monthly instalments during the financial year in which the rates are raised then the ratepayer shall be liable to pay the full outstanding rates.

42. PROPERTY RATES

- 42.1 All properties within the boundary of the KwaDukuza Municipality are to be valued in terms of the legislation applicable to the valuation of properties for the purposes of levying property rates.
- 42.2 Rebates on rates may be granted by Municipality in terms of the Municipality's rating policy.
- 42.3 Owners must pay the property rates in eleven equal monthly installments or over a period as determined by Council. Regular monthly instalments payments must be maintained.

43. PAYMENT OF CURRENT RATES

43.1. In terms of Section 26 of the Municipal Property Rates Act:

- i) A municipality may recover a rate –
 - (a) on a monthly basis or less often as may be prescribed in terms of the Municipal Finance Management Act; or
 - (b) annually, as may be agreed to with the owner of the property.
- ii) (a) If a rate is payable in a single amount annually it must be paid on or before a date determined by the municipality.
- (b) If a rate is payable in instalments it must be paid on or before a date in each period determined by the municipality.

43.2 In the event of the ratepayer failing to pay any three monthly instalments during the financial year in which the rates are raised then the ratepayer shall be liable to pay the full outstanding rates.

44. UNALLOCATED CONSUMPTION

- a) When electricity consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised the relevant charges shall be raised against the registered owner.
- b) When a customer terminates a consumption account and no new customer registers, a property is deemed to be vacant. The account shall be forwarded to the owner until he advises the Municipality to the contrary:--
 - i) **for business premises** - instructions to disconnect the electricity supplies to the property must be issued immediately and auctioned;
 - ii) **for residential premises** - a courtesy letter is forwarded to the new occupier or owner within 7 days advising of the need to register as a customer and indicating the application procedures that need to be followed. Failure to respond to that letter within a 7 day period will result in the issue of supply disconnection instructions.

45. ILLEGAL ELECTRICITY CONNECTION

45.1 In the event of it being found that any electricity connection had been made illegally by any person than then the following shall take place:

- a) the electricity shall be disconnected with immediate effect.
- b) The occupier/owner/developer jointly and severally shall pay a penalty as per the tariff of charges.
- c) The occupier/owner/developer shall be jointly and severally liable for consumption charges.
- d) The occupier/owner/developer shall be jointly and severally pay interest on the consumption Charges at the rate as determined by Council in the tariff of charges from time to time, from the date of disconnection to date of payment.

- e) The applicant shall pay the outstanding municipal account in full, including current instalment, interest and penalty fees, payment of unauthorized consumption, disconnection and reconnection fees, and increased in a deposits as determined by Council in the tariff of charges, shall become due and payable before any reconnection can be sanctioned.
- f) Where a consumer and/ or any person has contravened sub-section (1) and such contravention has resulted in the meter recording less than the true consumption, the Municipality shall have the right to recover the full cost of his estimated consumption, retrospective to the determined date of tempering /interruption to the electricity.
- g) Application for new services shall only be accepted from the owner of the property.
- h) Application for new services shall only be accepted from the owner of the property.
- i) Reconnection of electricity services shall be undertaken by Electrical Department upon receipt of the clearance certificate from Finance Department.
- j) No acknowledgement of debt shall be entertained.
- k) Council reserves the right to lay criminal charges and/or to take any other legal action against the customer or the consumer.

45.2 TAMPERING AND/OR THEFT OF SERVICES ON PREPAID ELECTRICITY METER

- 45.1 Any person found to be illegally connected to municipal services, tampering with prepaid electricity meters, will be prosecuted and shall be liable for:
- 45.2 The total outstanding debt, including the current instalment, interest and penalty fees (tamper fee), assessment of unauthorized consumption, will become due and payable before any reconnection can be sanctioned
- 45.3 The Customer or Consumer shall be obliged to make application for new electricity services.
- 45.4 Application for new services shall only be accepted from the owner of the property.
- 45.5 All applications are made and processed at the electrical department of KwaDukuza Municipality.
- 45.6 The applicant shall obtain from the enquiry clerk at the finance department, the full balance of any amount due, owing and payable in respect of any municipal account
- 45.7 The applicant shall pay the outstanding municipal account in full including the current instalment, interest and penalty fees (tamper fee), payment of unauthorized consumption, will become due and payable before any reconnection can be sanctioned
- 45.8 Where a consumer and/ or any person has contravened sub-section (1) and such contravention has resulted in the meter recording less than the true consumption, the Municipality shall have the right to recover the full cost of his estimated consumption, retrospective to the determined date of tempering /interruption to the electricity.
- 45.9 Once payment has been made, the enquiries clerk at finance department shall issue a certificate to the customer reflecting that the outstanding municipal services and rates accounts have been paid in full.

- 45.10 On instances where the prepaid electricity meter has been found to be tampered with; Councils may prefer conversion of prepaid electricity metering system to conventional electricity metering system, conversion shall be implemented at the customers cost.
- 45.11 Reconnection of electricity services shall be undertaken by Electrical Department upon receipt of the clearance certificate from Finance Department.
- 45.12 No acknowledgement of debt shall be entertained.
- 45.13 Council reserves the right to lay criminal charges and/or to take any other legal action against the customer or the consumer.

CHAPTER 4

PROVISION OF MUNICIPAL SERVICES TO INDIGENT CUSTOMERS

46. QUALIFICATION FOR REGISTRATION AS INDIGENT CUSTOMER

- 46.1 Customers shall qualify to be registered as an indigent if the combined gross income of all occupants of the household over the age of 18 years is less than that amount determined by the municipality from time to time.
- 46.2 Indigent subsidy shall apply to a household and not an individual as the underlying principle of the Municipality in the provision of a service is that the service is provided to a property.
- 46.3 A household shall not be entitled to a subsidy where the aggregate income of the members of the household exceeds the applicable subsidized levels.

47. INDIGENT POLICY

The provisions of municipal services to indigent customers is subject to the policy guidelines as set out in the Indigent Policy of the municipality.

48. APPLICATION FOR REGISTRATION

- 48.1. A household who qualifies as an indigent customer must complete the application form entitled "Application for Registration as Indigent Customer" attached as Annexure B to these bylaws.
- 48.2 Any application in terms of subsection (1) must be accompanied by: -
- (a) Documentary proof of income, such as a letter from the customer employer, a salary advice, a pension card, unemployment fund card; or
 - (b) An affidavit declaring unemployment or income; and
 - (c) The customer's latest municipal account in his/her possession; and

- (d) A certified copy of the customer' identity document; and
 - (e) The names and identity numbers of all occupants and their dependants over the age of 18 years who are resident at the property.
- 48.3. A customer applying for registration as an indigent customer shall be required to declare that all information provided in the application form and other documentation and information provided in connection with the application is true and correct.
- 48.4. The municipality or its authorised agent shall counter-sign the application form and certify that the consequences and conditions of such an application for the customer were explained to the customer and that the customer indicated that the content of the declaration was understood.

49. APPROVAL OF APPLICATION

- 49.1. The municipality or its authorised agent may send authorised representatives to premises or households applying for registration as indigent customers to conduct an on-site audit of information provided prior to approval of an application.
- 49.2. An application shall be approved for a period of 12 months only. Subsidies will be forfeited if the applicant fails to submit proof of income or re-apply for the subsidy

50. CONDITIONS

50.1 The municipality or its authorised agent may upon approval of an application or any time thereafter install a pre-payment electricity meter for the indigent customer where electricity is provided by the municipality or its authorised agent when implemented.

50.2. A private residential property can only be registered as indigent under the following conditions:

- The municipal value of the land and buildings must not exceed an amount as determined by council.
- The member of a private household who is responsible for the payment of the service account must apply for the household to be registered as indigent.
- The total gross monthly income of all members of the household must not exceed the limit set by Council from time to time.
- The applicant as well as any other member of the household shall not own other fixed property other than the one on which they reside.
- The onus is on the recipient to inform the Municipality of any change in his/her financial status or personal household circumstances.

- (i) All existing indigent applicants shall be reviewed /entertained after a period of 9 months from the date of application to assess the provision of continued basic service for the ensuing financial year.

50.3. The Municipality shall apply the following indigent policies:

- 50.3.1 Electricity consumers will receive a number of kwh free as determined by council .
- 50.3.2 Refuse consumers living in low cost housing provided by Local, Provincial or Central Government will be charged a refuse tariff at a special rate covered by equitable share.
- 5.3.3. Rates residential properties with a land value as determined by the municipality from time to time is subject to a rebate.

51. APPLICATION EVERY 12 MONTHS

- 51.1. An indigent customer must re-apply for indigent support every 12 months, failing which the assistance will cease automatically.
- 51.2. The provisions of section 40 and 41 of these bylaws shall apply to any application in terms of subsection (1)
- 51.3. The municipality or its authorised agent cannot guarantee a renewal for indigent support.

52. SUBSIDISED SERVICES FOR INDIGENT CUSTOMERS

- 52.1. The Municipality may annually, as part of its budgetary process, determine the municipal services and levels thereof which will be subsidised in respect of indigent customers in accordance with national policy, but subject to principles of sustainability and affordability.
- 52.2. The Municipality will in the determination of municipal services which will be subsidized for indigent customers give preference to subsidizing at least the following services:
 - (a) Refuse removal services to a maximum of one removal per household per week.
 - (b) All rates levied on properties of which the municipal value as determined in the rates policy provided that if, in the case of any property or category of properties, it is not feasible to value or measure such, property, the basis on which the property rates thereof shall be determined, shall be as prescribed by the Municipality.
- 52.3. The municipality must, when making a determination in terms of subsection (1) give public notice of such determination.
- 52.4. Public notice in terms of subsection (3) must contain at least the following:
 - (a) The level or quantity of municipal service which will be subsidised

- (b) The level of subsidy.
 - (c) The method of calculating the subsidy.
 - (d) Any special terms and conditions which will apply to the subsidy, not provided for in these bylaws.
- 52.5. Any other municipal services rendered by the municipality or municipal services consumed in excess of the levels or quantities determined in subsection (1) shall be charged for and the indigent customer shall be liable for the payment of such charges levied on the excess consumption.
- 52.6. The provisions of Chapter 3 shall *mutatis mutandis* apply to the amounts due and payable in terms of subsection (5).

53. FUNDING OF SUBSIDISED SERVICES

The subsidised services referred to in section 7 shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

54. EXISTING ARREARS OF INDIGENT CUSTOMERS

Arrears accumulated in respect of the municipal accounts of customers prior to registration as indigent customers will be either: -

- 54.1. Written off;
- 54.2. Applied as a surcharge to prepaid electricity coupons; or
- 54.3. Be attempted to be recovered through legal proceedings and/or extended term arrangements.

55. AUDITS

The municipality may undertake regular random audits carried out by the municipality or its authorised agent to: -

- 55.1. Verify the information provided by indigent customer;
- 55.2. Record any changes in the circumstances of indigent customers; and
- 55.3. Make recommendations on the de-registration of the indigent customer.

56. DE-REGISTRATION

- 56.1. Any customer who provides or provided false information in the application form and/or any other documentation and information in connection with the application shall automatically, without notice, be de-registered as an indigent

customer from the date on which the municipality or its authorised agent became aware that such information is false.

- 56.2. An indigent customer must immediately request de-registration by the municipality or its authorised agent if his/her circumstances has changed to the extent that he/she no longer meet the qualifications.
- 56.3. An indigent customer shall automatically be de-registered if he does not meet the criteria as set out in the Debt and Credit Control Policy.
- 56.4. An indigent customer shall automatically be de-registered if an audit or verification concludes that the financial circumstances of the indigent customer has changed to the extent that he/she no longer meet the qualifications.
- 56.5.** Indigent support shall be withdrawn by the Municipality in the event of the recipient misusing the system or providing incorrect information. In this regard the Municipality shall:
- i. Recover from the recipient the amount of relief furnished by debiting his account.
 - ii. Apply the normal credit control in accordance with the Credit Control and Debt Control policy.
 - iii. Institute a criminal charge of fraud against the recipient.

CHAPTER 5

BUSINESSES WHO TENDER TO THE MUNICIPALITY

57. PROCUREMENT POLICY AND TENDER CONDITIONS

- 57.1. When inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to a condition that consideration and evaluation thereof will necessitate that the tenderer obtain from the Municipality a certificate stating that all relevant municipality accounts owing by the tenderer or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for the payments of arrears. To this end, copies of the municipality account and the identity documents of all directors, members or partners must be submitted together with the bid documents.
- 57.2. No tender shall be allocated to a person / contractor until suitable arrangement for the repayment of arrears, has been made. The tenderer must maintain arrangements and pay current installments as provided for in any contract with the Municipality.
- 57.3. Where payments are due to a contractor in respect of goods or services provided to the Council, any arrear amount owing to the Council shall be offset as a first charge against such payments as provided for in the contract with the Municipality.

- 57.4 All tender documents and contracts relating thereto shall contain a condition allowing the Municipality to deduct any moneys owing to the Municipality from contract payments. Must be written into the agreements

CHAPTER 6

UNAUTHORISED AND ILLEGAL SERVICES

58. UNAUTHORISED SERVICES

- 58.1. No person may gain access to municipal services unless it is in terms of an agreement entered into with the municipality or its authorised agent for the rendering of those services.
- 58.2. The municipality or its authorised agent may, irrespective of any other action it may take against such person in terms of these bylaws by written notice order a person who is using unauthorized services to: -
- (a) Apply for such services in terms of Chapter 2 Part 1 of the Bylaws;
 - b) Pay the demand based component and tampering fees as prescribed in the tariff of charges.
 - (c) Undertake such work, as may be necessary to ensure that the unauthorized customer installation complies with provisions of these or any other relevant bylaws.
- 58.3. Any agreement, entered into before the date of coming into effect of these bylaws, and which is in full force and effect, shall be deemed to have been entered into in terms of these bylaws and shall remain in force and effect until cancelled.

59. ILLEGAL SERVICES

In the event of it being found that any electricity connection had been made illegally by any person then the following shall take place:

- 59.1. The electricity shall with immediate effect be disconnected.
- 59.2. The occupier/owner/developer jointly and severally shall pay a penalty as per the tariff of charges.
- 59.3. The occupier/owner/developer jointly and severally shall pay consumption charges.
- 59.4. The occupier/owner/developer jointly and severally shall pay interest on the consumption charges at the rate as determined by Council in the tariff of charges from time to time, from the date of disconnection to date of payment.

60. INTERFERENCE WITH INFRASTRUCTURE FOR THE PROVISION OF MUNICIPAL SERVICES

- 60.1. No person other than the municipality or its authorised agent shall manage, operate or maintain infrastructure through which municipal services are provided.
- 60.2. No person other than the municipality or its authorised agent shall effect a connection to infrastructure through which municipal services provided.

61. OBSTRUCTION OF ACCESS TO INFRASTRUCTURE FOR THE PROVISION OF MUNICIPAL SERVICES

- 61.1. No person shall prevent or restrict physical access to an infrastructure through which municipal services are provided.
- 61.2. If a person contravenes subsection (1), the municipality or its authorised agent may: -
- (a) By written notice require such person to restore access at his/her own expense within a specified period, or
 - (b) If it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

62. ILLEGAL RE-CONNECTION

- 62.1. A person who illegally reconnects to a service, interferes with the infrastructure through which municipal services are provided, after such customers access to municipal services have been disconnected, such customers supply of electricity shall be immediately removed.
- 62.2. A person who re-connects to municipal services in the circumstances referred to in subsection 59.1 shall be liable for the cost associated with any consumption, notwithstanding any other actions which may be taken against such a person.
- 62.3. In the event that the demand based component was not paid, the tampering fee shall be applicable in terms of the tariff of charges.

63. IMMEDIATE DISCONNECTION

- 63.1. Immediate disconnection for failure to give information or supply of false information.
- 63.2. The provision of municipal services may immediately be disconnected if any person fails to provide information or provide false information reasonably requested by the municipality or its authorised agent.

CHAPTER 7**CUSTOMER CARE MANAGEMENT****64. CUSTOMER CARE MANAGEMENT**

The Municipality's customer care and management is as set out in both Chapter 9 of the Act and the Credit Control and Debt Collection Policy.

The municipality shall, for the levying of rates and taxes for the municipal charges, within its final and administrative capacity, have the following principles pertaining to customer care and management:

- 64.1 Establish a sound management system between the customer and the municipality, to create a harmonious relationship between the customer and the municipality so that customer are treated with respect and dignity.
- 64.2 To establish a customer call centre, with a shared call facility to attend to the following:
- 64.3. To receive communication from customers regarding the quality of service, performance of the municipality and the accuracy of the accounts.
- 64.4. To enable customer to query and verify their accounts (metered electricity accounts, rates and refuse, sundry and housing) and to promptly resolve the query and rectify the inaccurate account. The queries or complaints in respect of account may be dealt with as follows:
 - 64.4.1 A customer may lodge a query or complaint in respect of any accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
 - 64.4.2 A query or complaint must be lodged with the municipality or its authorized agent before the due date for payment of the account.
 - 64.4.3 A query or complaint must be accompanied by the payment of the average of the last three month's accounts where history of the account is available or an estimated amount provided by the municipality before payment due date until the matter is resolved.
 - 64.4.4 The municipality or its authorized agent will register the query or complaint and provide the customer with a reference number.
 - 64.4.5 The municipality or its authorized agent:-
 - (a) shall investigate or cause the query or complaint to be investigate and
 - (b) must inform the customer, in writing, of its finding within fourteen (14) days after the query or complaint was registered.

- 64.4.6 Failure to make such agreed interim payment or payments will render the customer liable for disconnection.
- 64.5. To inform the customer that if they are dissatisfied with the manner in which their query was handled to follow a stipulated procedure of appeal to the Chief Financial Officer who shall promptly attend to the complaint. The customer may appeal against finding of a municipality in respect of queries or complaints as follows:
- 64.5.1. A customer may appeal in writing against a finding of the municipality or its authorized agent in terms of Section 62 of the Act.
- 64.5.2 An appeal and request in terms of subsection (1) must be made in writing and lodged with the municipality within 21 days after the customer became aware of the finding referred to in section 64.4.5. above and must:
- (a) set out the reason for the appeal; and
 - (b) be accompanied by any security determined for the testing of a measuring device, if applicable.
- 64.6. To ensure that the Assistant Director Credit Control receives daily reports on such queries and monitors the response time and the efficiency in dealing with the query.
- 64.7. To take reasonable steps to inform customers of the costs involved in the service, the changes to tariffs and policies, reasons for payment of the service fees and how their payments are utilized to provide the service.
- 64.8. To provide an accurate and verifiable metering system for electricity.
- 64.9. To provide regular and accurate accounts to the customer with details reflecting the basis for the calculation of the amount due in order to ensure that the consumer pays the account with satisfaction that the account is correct.
- 64.10. To provide:
- 64.10.1 An electronic facility for the payment of accounts to the municipality's bank account.
 - 64.10.2 Adequate and accessible pay points within the jurisdiction of the municipality for the payment of accounts and the purchase of pre-paid electricity.

The municipality shall, for the levying of rates and taxes for the municipal charges, within its final and administrative capacity, have the following principles pertaining to customer care and management:

- 64.11. Establish a sound management system between the customer and the municipality, to create a harmonious relationship between the customer and the municipality so that customers are treated with respect and dignity.

- 64.12. To establish a customer call centre, with a shared call facility to attend to the following:
- 64.12.1 To receive communication from customers regarding the quality of service, performance of the municipality and the accuracy of the accounts.
- 64.12.2 To enable customers to query and verify their accounts (metered electricity accounts, rates and refuse, sundry and housing) and to promptly resolve the query and rectify the inaccurate account. The queries or complaints in respect of account may be dealt with as follows:
- A customer may lodge a query or complaint in respect of any accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
 - A query or complaint must be lodged with the municipality or its authorized agent before the due date for payment of the account.
 - A query or complaint must be accompanied by the payment of the average of the last three month's accounts where history of the account is available or an estimated amount provided by the municipality before payment due date until the matter is resolved.
- The municipality or its authorized agent will register the query or complaint and provide the customer with a reference number.
- The municipality or its authorized agent:-
 - (a) shall investigate or cause the query or complaint to be investigate; and
 - (b) must inform the customer, in writing, of its finding within one month after the query or complaint was registered.
- 64.12.3 Failure to make such agreed interim payment or payments will render the customer liable for disconnection.

CHAPTER 8

OFFENCES

65. OFFENCES AND PENALTIES

Any person who: -

- 65.1. Fails to register and give information required by the municipality or its authorised agent in terms of these bylaws;
- 65.2. Assist any person in providing false or fraudulent information or assist in willfully concealing information;

- 65.3. Uses, tampers or interferes with municipal equipment, service supply equipment, reticulation network or consumption of services rendered;
- 65.4. Fails or refuses to give the municipality or its authorised agent such information as may reasonably be required for the purpose of exercising the powers or functions under these bylaws or gives such the municipality or its authorised agent false or misleading information, knowing it to be false or misleading;
- 65.4. Contravenes or fails to comply with a provision of these bylaws;
- 65.5. Fails to comply with the terms of a notice served upon him/her in terms of these bylaws, shall be guilty of an offence and liable upon conviction to the fines determined by a Chief Magistrate of the Magistrate's Court with jurisdiction in the area in which the offence has been committed or imprisonment as determined by a competent court.

CHAPTER 9

DOCUMENTATION

66. SIGNING OF NOTICES AND DOCUMENTS

A notice or document issued by the municipality in terms of these bylaws and signed by a staff member of the municipality or its authorised agent shall be deemed to be duly issued and must on its mere production be accepted by a court of law as evidence of that fact.

67. NOTICES AND DOCUMENTS

- 67.1. A notice or document issued by the municipality or its authorised agent in terms of these bylaws shall be deemed to be duly authorised if an authorised agent signs it;
- 67.2. Any notice or other document that is served on an owner, customer or any other person in terms of these bylaws is regarded as having been served: -
- (a) If it has been delivered to that person personally;
 - (b) When it has been left at that person's place of residence, business or employment in the Republic with a person over the age of sixteen years;
 - (c) When it has been posted by registered or certified mail to that person's last known residential address or business in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
 - (d) If that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided in sub-sections (c); or
 - (e) It has been posted in a conspicuous place on the property or premises, if any, to which it relates.

- 67.3. When any notice or other document must be authorised or served on the owner, occupier or holder of any property it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and is not necessarily the name of that person.
- 67.4. In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.
- 67.5. When such notice is reflected on the face of an account such notice shall be deemed as adequate written notice for the supply to be disconnected when payment is not received on the due date stated on the statements.

68. AUTHENTICATION OF DOCUMENTS

Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated. If signed by the municipal manager or by a duly authorised officer of the municipality or the authorised agent of the municipality; such authority being conferred by resolution of the municipality, written agreement or by a bylaw.

69. PRIMA FACIE EVIDENCE

In legal proceedings by or on behalf of the municipality or its authorised agent, a certificate reflecting the amount due and payable to the municipality or its authorised agent, under the hand of the municipal manager, or suitably qualified municipal staff member authorised by the municipal manager or the manager of the municipality's authorised agent, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

70. DEBT COLLECTION PROCEDURE

The municipality has by resolution established a Credit Control and Debt Collection Policy only which regulates the debt collection procedure of the municipality. All debt collection is subjected to both the Bylaw and the Policy.

CHAPTER 10

GENERAL PROVISIONS

71. POWER OF ENTRY AND INSPECTION

Subject to the Provisions of Section 101 of the Act, the municipality or its authorised agent may enter and inspect any premises for any purpose connected with the implementation or enforcement of these bylaws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.

72. EXEMPTION

72.1. The municipality may, in written, exempt an owner, customer, any other person or category of owners, customers, ratepayers, users of services from complying with a provision of these bylaws, subject to any conditions it may impose, if it is of the opinion that the application of operation of that provision would be unreasonable, provided that the municipality or its authorised agent shall not grant exemption from any section of these bylaws that may result in: -

- (a) The wastage or excessive consumption of municipal services;
- (b) Significant negative effects on public health, safety or the environment;
- (c) The non-payment for services;
- (d) The Act, or any regulations made in terms thereof, is not complied with.

72.2. The municipality at any time after giving written notice of at least 30 days, withdraws any exemption given in terms of subsection (1).

73. AVAILABILITY OF BYLAWS

73.1. A copy of these bylaws shall be included in the Municipality Municipal Code as required in terms of legislation.

73.2. The municipality or its authorised agent shall take reasonable steps to inform customers of the contents of the credit control and debt collection bylaws.

73.3. A copy of these bylaws shall be available for inspection at the municipal offices or at the offices of its authorised agent at all reasonable time.

73.4. A copy of the bylaws be obtained against payment of a fee as prescribed in the Municipality's tariff of charges from the municipality or its authorised agent.

74. CONFLICT OF LAWS

75.1. When interpreting a provision of these bylaws, any reasonable interpretation which is consistent with the purpose of the Act as set out in Chapter 9 on Credit Control and Debt Collection, must be preferred over any alternative interpretation which is inconsistent with that purpose.

75.2. If there is any conflict between these bylaws and any other bylaws of the Municipality, these bylaws will prevail.

75. SHORT TITLE AND COMMENCEMENT

76.1. These bylaws are called the Credit Control and Debt Collection bylaws of the Kwadukuza Municipality and takes effect on 1 July 2016.

76.2. The municipality may, by a resolution, determine that provisions of these bylaws, listed in the resolution, shall not apply in certain areas within its area of jurisdiction from a date specified in the notice.

76.3. Until any decision contemplated subsection (2) is taken, these bylaws are binding within the area of jurisdiction of the Municipality.

77. REPEAL OF BYLAWS

All previous Municipal Bylaws, and amendments thereto, relating to Credit control and Debt collection as promulgated by the KwaDukuza Municipality is hereby repealed.

PROVINCIAL NOTICE 117 OF 2016

**BYLAWS RELATING TO
Credit Control and Debt
Collection**

KWADUKUZA MUNICIPALITY**BYLAWS RELATING TO CREDIT CONTROL AND DEBT COLLECTION**

The Kwadukuza Municipality, acting under the authority of section 156 (2) of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) read with section 11 and section 98 of the Local Government: Municipal System Act, 2000 (Act No.32 of 2000), hereby publishes Credit Control and Debt Collection Bylaws which bylaws will come into effect on the 1 day of July 2016.

CHAPTER 1**DEFINITIONS****DEFINITIONS**

For the purpose of these bylaws, any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in these bylaws and unless the context indicates otherwise: -

“account”	means any account rendered for municipal services, sundry charges, housing services and rates;
“Act”	means the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000, as amended from time to time;
“actual consumption”	means the measured consumption of any customer;
“administration charges”	A fee charged on the capital rates then in arrears as determined by council from time to time;
“agreement”	means the contractual relationship between the municipality or its authorized agent and a customer, whether written or deemed;
“applicable charges”	means the rate, charge, tariff, flat rate, or subsidy determined by the council;
“area of supply”	means any area within or partly within the area of jurisdiction of the municipality or such other areas where the service is requested;
“arrangement”	means written agreement entered into between the Council and the debtor where specific repayment parameters are agreed;
“arrears”	means any amount due, owing and payable by a customer to the Municipality in respect of municipal services, sundry charges, housing service and rates not paid by due date;
“applicable charges”	means the rate, charge, tariff, flat rate, or subsidy determined by the Municipality;

“authorised agent”	means: - (a) any person authorised by the municipality to perform any act, function or duty in terms of, or exercise any power under these bylaws, and/or (b) any person to whom the municipality has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; and/or (c) any person appointed by the municipality in terms of a written contract or a service provider to provide revenue services to customers on its behalf, to the extent authorised in such contract;
“average consumption”	means the average consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the customer’s total measured consumption of that municipal service over the preceding six months by six;
“credit control and debt collection policy”	means the policy as adopted by the Municipality for the credit control and debt collections of the municipality as amended from time time by the municipality ;
Credit control:	means all functions and processes relating to the collection of monies due to the municipality
“Chief Financial Officer”	means a person employed by the Municipality as its Chief Financial Officer;
“commercial customer”	means any customer other than household and indigent customers, including without limitation, business, government and institutional customers;
“connection”	means the point at which a customer gains access to municipal services;
“Consolidated Bill”	A monthly bill reflecting all monies due to the Municipality in terms of Section 102 of the Act for electricity, refuse rates, vat and sundry charges;
“councillor”	means a person as defined in terms of the Act;
“customer”	means a person or owner with whom the municipality or its authorised agent has concluded an agreement or has an account with the Municipality;
“debtor”	means any person indebted to the Municipality;
“defaulter”	means any customer or ratepayer in arrears;

“deposit”	means an amount required as security to be determined by the Municipality;
“due date”	means: <ul style="list-style-type: none"> (i) <u>Monthly</u> The monthly date on which all accounts become due and payable which date shall be within 30 days after the date of the account during normal cashier hours. (ii) <u>Annual</u> Where the owner has entered into an agreement with the Municipality to pay property rates annually, the due date shall be a date to be determined by the Municipality.
“emergency situation”	means any situation that if allowed to continue poses a risk or potential risk to the financial viability or sustainability of the municipality or a specific municipal service;
“estimated consumption”	means the deemed consumption by a customer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of municipal services for a specific level of service during a specific period in the area of supply of the municipality or its authorised agent;
“household customer”	means a customer that occupies or owns a dwelling, structure or property primarily for residential purposes;
“household”	means a traditional family unit consisting of a combination of persons over the age of eighteen and persons eighteen years and younger) living together as a family unit;
“housing services”	means any rental (rates if applicable), instalment, administration charges, insurance premiums and housing interest.
“illegal connection”	means a connection to any system through which municipal services are provided which is not authorised or approved by the municipality or its authorised agent;
“indigent customer”	means a household customer qualifying and registered with the municipality as an indigent;
“interest/penalties”	means a charge with the same legal authority as service fees and calculated at a rate determined by Council from time to time on all arrear accounts (capital only);
“MFMA”	means the Municipal Finance Management Act No 56 of 2003;
“municipal area”	means the geographical area of the KwaDukuza Municipality as determined by the demarcation board in terms of the Demarcation Act No ;

"Municipality or Council"	means the KwaDukuza Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any Official who has delegated powers in terms of Section 59 of the Local Government Municipal Systems Act (Act 32 of 2000);
"Municipal Manager"	Means the person appointed by the municipality as the manager of the municipality in terms of section 55, section 56 and section 57 of the Municipal Systems Act read with Section 82 of the Local Government Municipal Structures Act 1998 (Act No. 117 of 1998) and includes any person: <ul style="list-style-type: none"> (a) acting in such position; and (b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty.
"municipal service"	means services provided by the municipality or its authorised agent, including refuse removal and electricity services;
"Municipal Clearance Certificate"	Means a certificate issued by the Municipality in terms of Section 118 of the Municipal Systems Act, which certifies that all amounts that became due in connection with the property for municipal service fees, surcharge on 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. The certificate issued will be valid for a period of 60 days from date of issue.
"occupier"	includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;
"owner"	means: - <ul style="list-style-type: none"> (a) the person in whom from time to time is vested the legal title to immovable property; (b) in a case where the person in whom the legal title to immovable property is vested is insolvent or deceased, or is under any form of legal disability whatsoever, 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; (c) in any case where the municipality or its authorised agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such immovable property or buildings thereon

- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into with 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 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 'Home Owners Association', **which includes** all members of the Association;
- (f) the Ingonyama Trust, where the land is vested in the Trust by virtue of the provisions of the Ingonyama Trust Act No 3 of 1994 and the Ingonyama Trust Amendment Act, 9 of 1997
- (g) any legal person including but not limited to:
 - (i) a company registered in terms of the Companies Act, (Act 61 of 1973), a trust, a close corporation registered in terms of Close Corporation Act, (Act 69 of 1984) a voluntary association and any department of State;
 - (ii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa;
 - (iii) any Embassy or other foreign entity.

"person"

means any natural person, local government body or like authority, a company or close corporation incorporated under any law, body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"public notice"

means publication in an appropriate medium that may include one or more of the following: -

- (a) publication of a notice, in an official language determined by the Municipality in the local newspaper or newspapers in the area of the municipality; or in the newspaper or newspapers circulating in the area of the municipality determined by the Municipality as a newspaper on record; or by means of radio broadcast covering the area of the municipality; or displaying a

	notice at appropriate offices and pay-points of the municipality or its authorised agent, or
	(b) communication with customers through public meetings, on municipal website, electronic communication and ward committee meetings;
"Rates"	means : municipal tax levied on the valuation of property. The rate is expressed as cents in the rand.
"Rates Act"	means Municipal Property Rates Act 6 of 2004.
"Ratepayer"	means a person who is liable to the Municipality for the payment of: <ul style="list-style-type: none"> (a) Rates on the property within the Municipal area (b) Any other tax, duty, or levy imposed by the Municipality and/or (c) Fees for the services provided either by the Municipality or in terms of a service delivery agreement,
"Resident"	means a person who ordinarily resides in the Municipal area;
"Service Authority"	means the power of a Municipality to regulate the provision of a municipal service by a service provider;
"Service Delivery Agreement"	means an agreement between a Municipality and an institution or person mentioned in Section 76(b) of the Act, in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the Municipality.
"Service provider"	means a person or institution or any combination of persons and institutions which provide a municipal service;
"Service Utility"	means a municipal entity established in terms of Section 86B of the Act
"social housing tenant"	means any person letting / leasing any residential premises from any public legal body for less than a full rack rental or letting / leasing residential premises from a private person and receiving from the National / Provincial Government a subsidy or other amount to empower the tenant to pay the full rack rental.
"Staff"	means the employees of the municipality, including the municipal manager;
"Sundry charges"	means any charge excluding a municipal service, housing service and rates;

“supply zone”	means an area, determined by the municipality or its authorized agent, within which all customers are provided with service from the same bulk supply connection;
“Tamper with supply of power”	means the unauthorized or illegal consumption of electricity by unauthorized or illegal reconnection of electricity without authority.
“unauthorised services”	means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised approval by the municipality or its authorised agent.
“Vat”	means a charge legislated in terms of the Vat Act No. 89 of 1991 as amended.

CHAPTER 2

PROVISION OF MUNICIPAL SERVICES TO CUSTOMERS

PART 1: APPLICATION FOR MUNICIPAL SERVICES

2.1. APPLICATION AND REGISTRATION FOR SERVICES

- 2.1.1 No person shall be entitled to a municipal service unless such person has made application on the prescribed form, annexed hereto, and such application has been approved by the Municipality.
- 2.1.2 If, at the commencement of these bylaws or at any other time, municipal services are provided and received and no written agreement exist in respect of such services, it shall be deemed that: -
- (a) An agreement exists; and
 - (b) The level of services provided to that customer are the level of services elected, until such time as the customer enters into an agreement.
- 2.1.3 The applicant shall be obliged to furnish all documents required by the Municipality in terms of the credit control policy in order to register such person on the municipality's data base as a customer.
- 2.1.4 Persons who fail to register for services and who illegally benefits from services shall be subjected to punitive measures or such civil or criminal sanction as the municipality deems appropriate in terms of Section 53 of the Bylaws.
- 2.1.5 The municipality or its authorised agent shall only be obliged to provide a specific level of service requested if such service is currently being provided, provided that the municipality or its authorised agent has the resources and capacity to provide such level of service.

- 2.1.6. A customer may at any time apply to alter the level of services as elected in terms of the agreement entered into, provided that such level of service is available and that any costs and expenditure associated with altering the level of services is paid by the customer.
- 2.1.7. An application for services submitted by a customer and approved by the municipality or its authorised agent shall constitute an agreement between the municipality or its authorised agent and the customer, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- 2.1.8. In completing an application form for municipal services the municipality or its authorised agent will ensure that the document and the process of interaction with the owner, customer or any other person making such an application are understood by that owner, customer or other person and advise him or her of the option to register as an indigent customer.
- 2.1.9. In the case of illiterate or similarly disadvantaged persons, the municipality or its authorised agent must take reasonable steps to ensure that the person is aware of and understands the contents of the application form and shall assist him or her in completing such form.
- 2.1.10. Municipal services rendered to a customer is subject to the provisions of these bylaws, any other applicable bylaws and or related policies of the municipality and conditions contained in the agreement signed by such person.
- 2.1.11. If the municipality or its authorised agent: -
- (a) refuse an application for the provision of municipal services or a specific service or level of service;
 - (b) is unable to render such municipal services or a specific service or level on the date requested for such provision to commence; or
 - (c) is unable to render such municipal services or a specific service or level of services,

the municipality or its authorised agent shall, within fourteen (14) days, inform the customer of such refusal and/or inability, the reasons therefore and, if applicable, when the municipality or its authorised agent will be able to provide such municipal services or a specific service or level of service.

2.2.. APPLICATION FOR ELECTRICITY SERVICES (CONVENTIONAL METERS)

- 2.2.1 The Municipality shall whenever possible, combine any separate accounts of persons, who are owners and consumers that are liable for payment to the municipality, into one consolidated account.
- 2.2.2 All new application for services will only be accepted from the owner and will be linked to the rates accounts or name of the owner and not deemed a separate account, except for a block of flats where separate individual units accounts shall be opened under the name of the owner.

- 2.2.3 No application or amendment to the customer database can be processed unless legal documentation acceptable to the Chief Financial Officer or in his absence the Director Revenue has been produced in each instance;
- 2.2.4. With respect to a residential application, the owner of the property shall submit the following documents:
- i. Certified copy of identity document or passport;
 - ii. A letter from the transferring attorney confirming ownership or a copy of the Title Deed; and
 - iii. Ratable details or rate number of the property, if available.
 - iv. Proof of salary/income/bank statement
- 2.2.5 With respect to a commercial application the following documents must be produced:
- i. The Certificate of Registration or incorporation of the Company, CC, Trust, or Partnership.
 - ii Certified copy of the identity document or passport of one of the directors, members, trustees or owner in the case of a sole proprietor, who would open an account.
 - iii Letters of authority in the case of a partnership or sole proprietor.
 - iv. Personal sureties from one or more of the Directors / Members of a Company / CC / Trust or Partnership
 - v. VAT registration numbers if applicable
 - vi. Landlords consent / lease agreement / agents mandate between landlord / agent
 - vii. In the event of the company leasing the property a letter from the owner giving consent to the tenant to apply for Municipal services.
- 2.2.6. Customers who fail to apply and who illegally consume services will be subjected to punitive measures or such civil or criminal action as the Municipality deems appropriate in terms of Section 53 of the KwaDukuza Municipality Bylaws relating to Credit Control and Debt Collection.
- 2.2.7 Outstanding debt on the property, must be settled in full or suitable payment arrangements must be made by the owner of the property, before the new customer is registered.
- 2.2.8 New applications for services from customers who are in arrears with any other municipal accounts shall not be approved unless the arrears have been settled in full or suitable payment arrangements have been made by the applicant.

- 2.2.9 Any application for any supply of services to any premises must be made at least four working days prior to the service being required, in the prescribed format, and must comply with the conditions as determined by the Municipal Manager or his or her delegate from time to time.
- 2.2.10 No services shall be supplied unless and until application has been made by the owner and a service agreement in the prescribed format has been entered into and the deposit has been paid.
- 2.2.11 The municipality may require of an applicant to submit information and documentary proof so as to enable it to bring its records up to date and to assess the creditworthiness of the applicant and may require such information to be provided on oath.

3. SPECIAL AGREEMENTS FOR MUNICIPAL SERVICES

The municipality or its authorised agent may enter into a special agreement for the provision of municipal services with an applicant: -

- 3.1. within the area of supply; if the services applied for necessitates the imposition of conditions not contained in the prescribed form or these bylaws;
- 3.2. receiving subsidized services ; and
- 3.3. if the premises to receive such services is situated outside the area of supply, provided that the municipality having jurisdiction over the premises has no objection to such special agreement. The obligation is on the customer to advise the municipality having jurisdiction of such special agreement.

4. CHANGE IN PURPOSE FOR WHICH MUNICIPAL SERVICES ARE USED

Where the purpose for or extent to which any municipal service used is changed, the onus and obligation is on the customer to advise the municipality or its authorised agent of such change and to enter into a new agreement with the municipality or its authorised agent.

PART 2 APPLICABLE CHARGES

5. APPLICABLE CHARGES FOR MUNICIPAL SERVICES

- 5.1. All applicable charges in respect of municipal services, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest will be set by the Municipality in accordance with: -
- (a) Its tariff of charges;
- (b) Its credit control and debt collection policy and any other applicable policy;
- (c) Any bylaws in respect thereof; and

(d) Any regulations in terms of national or provincial legislation.

5.2. Applicable charges may differ between different categories of customers, users of services, types and levels of service, quantities of service, infrastructure requirements and geographical areas.

6. AVAILABILITY CHARGES FOR MUNICIPAL SERVICES

The Municipality shall as prescribed in the tariff of charges, for municipal services, levy a monthly fixed charge, annual fixed charge or once-off fixed charge where such services are not consumed.

7. SUBSIDISED SERVICES

7.1. The Municipality may, from time to time, and in accordance with National Policy, but subject to principles of sustainability and affordability, by public notice, implement subsidies for a basic level of municipal service.

7.2. The Municipality may, in implementing subsidies, differentiate between types of household customers, types and levels of services, quantities of services, geographical areas and socio-economic areas.

7.3. Public notice in terms of subsection (1) must contain at least the following details applicable to a specific subsidy;

- (a) Household customers who will benefit from the subsidy.
- (b) The type, level and quantity of municipal service that will be subsidized.
- (c) The area within which the subsidy will apply.
- (d) The rate (indicating the level of subsidy).
- (e) The method of implementing the subsidy.
- (f) Any special terms and conditions which will apply to the subsidy.

7.4. If a household customer's consumption or use of a municipal service is: -

- (a) Less than the subsidized service, the unused portion may not be accrued by the customer and will not entitle the customer to cash or a rebate in respect of the unused portion; and
- (b) In excess of the subsidized service, the customer will be obliged to pay for such excess consumption at the applicable rate.

7.5. A subsidy implemented in terms of subsection (1) may at any time, be withdrawn or altered in the sole discretion of the Municipality, after: -

- (a) Service of notice as contemplated in Section 115 of the Act on the person affected by the Municipality's intention to consider such withdrawal or alteration; and

- (b) Consideration by the Municipality of any comments or request received from the person affected.

- 7.6. Commercial customers shall not qualify for subsidized services.
- 7.7. Subsidized services shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

8. AUTHORITY TO RECOVER ADDITIONAL COSTS AND FEES

The municipality or its authorised agent has the authority to, notwithstanding the provisions of any other sections contained in these bylaws, recover any additional costs incurred in respect of implementing these bylaws against the account of the customer, including but not limited to: -

- 8.1. All legal costs, on an attorney and client scale and collection commission incurred in the recovery of any amount from customers;
- 8.2. The average cost incurred relating to any action taken in demanding payment from the customer or reminding the customer, by means of telephone, fax, e-mail letter or otherwise.

PART 3: PAYMENT

9. PAYMENT OF DEPOSIT

- 9.1. The municipality may from time to time, determine different deposits for different categories of customers uses of services, debtors, and different standards of services, which different deposits, shall be recorded and amended from time to time in the Credit Control and Debt Collection Policy of the municipality.
- 9.2. A customer shall on application for the provision of municipal services and before the municipality or its authorised agent may provide such services, pay a deposit, if the Municipality has determined a deposit in terms of its Credit Control and Debt Collection Policy and Tariff of Charges.
- 9.3. The municipality or its authorised agent may annually review a deposit paid in terms of subsection (9.2) and in accordance with such review require that an additional amount be deposited by the customer where the deposit is less than the most recent deposit determined by the Municipality.
- 9.4. If a customer is in arrears, the municipality or its authorised agent may require that the customer: -
 - (a) pay a deposit if that customer was not previously required to pay a deposit, and
 - (b) pay an additional deposit where the deposit paid by that customer is less than the most recent deposit.

- (c) The value of the original deposit paid or a guarantee held will be reviewed on a regular basis if an irregular and unacceptable payment pattern is identified.
- 9.5. Subject to subsection (9.7) below, the deposit shall not be regarded as being a payment or part payment of an account.
- 9.6. No interest shall be payable by the municipality or its authorised agent on any deposit held.
- 9.7. The deposit, if any, is refundable to the customer on termination of the agreement, provided the customer is not in arrears.
- 9.8. Deposits as prescribed in the tariff of charges will be due and payable on application of new customers and subject to review upon the movement of existing customers to a new address.
- 9.9. At the time of registration for a municipal service, a cash deposit, a bank cheque, an electronic fund transfer or a ~~bank guaranteed cheque~~ will be required based on the following criteria:

9.9.1 Property Owners

- a) Owners are requested to pay a consumption deposit as per the tariff of charges as approved by Council which reads as follows:
- “three months projected consumption value; which can be reduced to one month’s consumption value should the owner commit to direct debit payments at the time of application “ or
- b) Property owners may provide a guarantee from a Bank in lieu of a cash deposit but no application will be processed until either cash, or a guarantee is provided.

9.9.2 Tenants

Commercial tenants who wish to register for electricity consumption will be required to pay a deposit based on minimum three months consumption value at the time of application or as per the tariff of charges as approved by Council and will not be able to reduce this amount by committing to direct debit payments. They may provide a guarantee from a Bank in lieu of a cash deposit but no application will be processed until either the required payment or a guarantee is provided.

This provision does not apply to social housing tenants.

9.9.3. Increase in Deposits

- 9.9.3a The value of the original deposit paid or a guarantee held will be reviewed, on a regular basis, if an irregular and unacceptable payment pattern is identified. The customer shall be notified in writing of the revised deposit.

9.9.3b The deposit held shall be utilized to settle the arrear account after final account has been rendered or shall be utilized to cover the cost of the prepaid meter where the customer has been required to convert to the prepayment system due to arrears.

9.9.4.c where the account is in arrears for more than 60 days the deposit shall be increased by three months average consumption.

10. METHOD FOR DETERMINING AMOUNTS DUE AND PAYABLE

- 10.1. The municipality or its authorised agent shall in respect of municipal services that are metered, endeavor to, within available financial and human resources, read all customer connections, on a regular basis, subject to subsection (10.2).
- 10.2. If a service is not measured, a municipality or its authorised agent may, notwithstanding subsection (10.1), determine the amount due and payable by a customer, for municipal services supplied to such a customer by calculating: -
- (a) The shared consumption, and, if not possible;
 - (b) The estimated consumption
- 10.3. If services are metered, but it cannot be read due to financial and human resources constraints or circumstances out of the control of the municipality or its authorised agent, and the customer is charged for an average consumption the account following the reading of the metered consumption must specify the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment.
- 10.4. Where in the opinion of the municipality or its authorised agent it is not reasonably possible or cost effective to meter all customer connections and/or read all a metered customer connections within a determined area, the Municipality may, on the reconnection of the municipality or its authorised agent, determine a basic tariff (flat rate) to be paid by all the customers within that area, irrespective of actual consumption.
- 10.5. The municipality or its authorised agent must inform customers of the method for determining amounts due and payable in respect of municipal services provide which will apply in respect of their consumption or supply zones.

11. PAYMENT FOR MUNICIPAL SERVICES PROVIDED

- 11.1. A customer shall be responsible for payment of all municipal services consumed by him/her or it from the commencement date of the agreement until his/her or its account has been settled in full and the municipality or its authorised agent must recover all applicable charges due to the municipality.
- 11.2. If a customer uses municipal services for a use other than which it is provided by the municipality or its authorised agent in terms of an agreement and as a consequence is charged at a rate lower than the applicable rate the municipality or its authorised agent may make an adjustment of the amount charged and recover the balance from the customer.

11.3. If amendments to the applicable charge become operative on a date between measurements for the purpose of rendering an account in respect of the applicable charges and the date of payment,:-

- (a) It shall be deemed that the same quantity of municipal services was provided in each period of twenty-four hours during the interval between the measurements; and
- (b) Any fixed charge shall be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

12. FULL AND FINAL SETTLEMENT OF AN ACCOUNT

- 12.1. Where an account is not settled in full, any lesser amount tendered and accepted shall not be deemed to be in final settlement of such an account.
- 12.2. Subsection (12.1) shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement, unless the municipal manager or the manager of the municipality's authorised agent made such acceptance in writing.

13. RESPONSIBILITY FOR AMOUNTS DUE AND PAYABLE

- 13.1. Any amount due to the municipality for municipal service fee, surcharge on fees and any other municipal taxes and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.
- 13.2. Accordingly, all such municipal debts shall be a charge upon the property and shall be payable by the owner of the property, notwithstanding the provisions of any other sections of the bylaws.
- 13.3. Any person who purchases or otherwise acquires or leases immovable property from the Municipality shall be deemed to be the owner thereof from the date of such purchase or other acquisition by him or from the commencement of such lease, as the case may be.
- 13.4. Where the property is owned by more than one person, each such person shall be liable jointly and severally for all Municipal debts charged on the property.
- 13.5. Owners shall be held jointly and severally liable, with their tenants who are registered as customers for municipal services.
- 13.6. Tenants and/or agents shall be held liable for arrear rates restricted to the rental in terms of Section 28 of the Municipal Property Rates Act No 6 of 2004.,
- 13.7. When electricity consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised the relevant charges shall be raised against the registered owner.
- 13.8. When a customer terminates a consumption account and no new customer registers, a property is deemed to be unoccupied.. The owner shall be responsible for the account.

13.9 When the property is owned by a company or close corporation, each member or director shall be liable jointly and severally for all municipal debts charged on the property.

13.9 **DECEASED ESTATES**

13.9.1 The Executor of a deceased estate, in his capacity as such, shall be liable for payments of all debts on the property.

13.9.2 Where the property was previously governed by Black Estates Act, and the estate not yet been finalized, the occupants of the property shall be regarded as "Deemed Owners for the purposes of the account only, and shall be responsible for payment of consolidated accounts (including rates).

13.9.3. Deemed ownership does not confer any rights to the occupants other than the liability to pay the accounts.

13.9.4 failure to inform the Municipality that the property forms part of the deceased estate may result in the disconnection of services, until an executor has been appointed.

14. **DISHONoured PAYMENTS**

Where any payment made to the Municipality or its authorised agent by negotiable instrument, is later dishonoured by the bank, the municipality or its authorised agent:

- (a) Will recover all applicable charges
- (b) Shall regard such an event as a default on payment and shall disconnect services without notice and/or reserves the right to take legal action
- (c) shall require all future payments to be made by cash or electronic fund transfer in an event where more than two cheque payments from the debtor have been dishonoured by the bank.

15. **INCENTIVE SCHEME**

The Municipality may institute incentive schemes to encourage prompt payment.

16. **PAYPOINTS AND APPROVED AGENT**

16.1. A customer must pay his/her or its account at pay-points, designated by the municipality or its authorised agent from time to time, or at approved agents of the municipality or its authorised agent.

16.2. The municipality or its authorised agent shall inform a customer of the location of the designated pay-points and approved agents for payment of accounts.

PART 4: ACCOUNTS**17. ACCOUNTS**

- 17.1. Accounts shall be rendered monthly to customers at the address last recorded with the municipality or its authorised agent. The customer may receive more than one account for different municipal services if they are accounted for separately.
- 17.2. An error or omission or failure to receive or accept an account does not relieve a customer of the obligation to pay an amount due and payable.
- 17.3. Accounts must be paid by no later than the last date of payment specified in such account.
- 17.4 a) Assessment rates shall be billed on a monthly basis in terms of Section 64 (2) (b) of MFMA.
- b) annually, as may be agreed to with the owner of the property on or before a date as determined by the Municipality.
- c) The Municipality shall recover a rate annually for National and Provincial Government owned properties.
- 17.5 Monthly rates shall be levied in eleven equal installments, and subject to change as determined by the Council from time to time.
- 17.6 The Municipality will undertake to have the accounts mailed to all customers. However, failure to receive or accept accounts does not relieve a customer of the obligation to pay any amount due and payable. The onus is on the customer to make every effort to obtain a copy account for payment.
- 17.7 The Municipality or its authorised agent must, if administratively possible, issue a duplicate account to a customer on request. Landlords may request copies of their tenants accounts.
- 17.8 The Accounts shall reflect at least:
- a. The services rendered
 - b. The consumption of metered services or average, or estimated consumption.
 - c. The applicable charges
 - d. The amount due
 - e. property rates payable
 - d. Surcharges
 - g. Value Added Tax
 - h. Any rebates

- i. The adjustments, if any, to metered consumption that has been previously estimated.
- j. The arrears
- k. The interest payable on arrears
- l. The final date of payment
- m. The methods, places and approved agents where payment may be made.
- n. Administration charges
- o. Payments received.
- p. Period stipulated in the account.
- q. Any subsidies.
- r. any other adjustments

17.9. The Municipality shall post the rates assessment.

17.10 **READING OF CREDIT METERS**

- 17.10.1 Unless otherwise prescribed, credit meters shall normally be read at intervals of one month and the fixed of minimum charges due in terms of the tariff shall be assessed accordingly. The Municipality shall not be obliged to effect any adjustments to such charges.
- 17.10.2 If for any reasons the credit meter cannot be read, the Municipality can render an estimated account. The electricity energy consumed shall be adjusted in a subsequent account in accordance with the electricity actually consumed.
- 17.10.3 When a consumer vacates a property and a final reading of the meter is not possible, estimation may be made and the final account rendered accordingly.
- 17.10.4 If special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee.

18. **PAYMENT OPTIONS**

- 18.1 The Municipality must endeavor to establish a payment network to ensure that, wherever practically possible, customers in receipt of accounts have access to a payment site.
- 18.2. Customers must ensure that payments made through third party agents (post-office: easy pay; etc) are made at least 3 working days prior to the due date. The Municipality will not accept responsibility for delays in receipt of payments.
- 18.3. The methods of payment shall be pronounced by the Council from time to time.

19. **CASH ALLOCATION PRIORITIES**

19.1 When part payments are received against a Consolidated Account, the Municipality shall allocate such payments first to any due or unpaid interest charges; secondly, to satisfy any due or unpaid fees or charges; and thirdly, to reduce the amount of the principle debt in terms of the table of priorities as determined from time to time and as set out in the Credit Control and Debt Collection Policy

PRIORITY NO.	STATUS	SERVICE
1	Arrears	All other Municipal charges including administration charges and penalties.
2	Arrears	Additional Deposits
3	Arrears	Sundry Charges
4	Arrears	Housing Charges
5	Arrears	Refuse Charges
6	Arrears	Rates
7	Arrears	Electricity Charges
8	Current	All other Municipal charges including interest, collection charges and penalties.
9	Current	Additional Deposits
10	Current	Sundry Charges
11	Current	Housing Charges
12	Current	Refuse Charges
13	Current	Rates
14	Current	Electricity Charges
15	Vat	Will be allocated in terms of the Vat Act of 1991

20. PROPERTY RATES AND CONSOLIDATED BILLING

- 20.1. If one account is rendered for more than one municipal service and rates provided, the amount due and payable by a customer constitutes a consolidated debt, and any payment made by customer of an amount less than the total amount due, will be allocated at the discretion of the municipality between service debts.

20.2. Property rates shall form part of the Consolidated Bill

20.3 Arrear rates or any other consolidated debt may result in disconnection of services.

20.4 The Municipality may, in terms of Section 28 of the Municipal Property Rates Act, recover arrear rates from tenants / managing agents in occupation of the relevant property but only to the extent of the rent payable or amount due by the tenant but not yet paid to the owner of the property. This does not preclude further legal action against the owner.

20.5 The Municipality may make application to court for judgment, costs and the summary sale of the property in appropriate circumstances. Legal costs and collection commission shall be debited to the relevant debtors accounts. In the event of the Municipality through its internal collection procedure recovering the debt from the customer, the customer shall be liable for any disbursements and collection commission.

20.6 Once judgment is obtained the properties will be advertised and sold through public auction.

20.7 The municipality shall follow the legal process to recover any portion of the debt outstanding for more than forty five (45) days.

20.8 If account is rendered for only one municipal service provided, any payment made by a customer of an amount less than the total amount due, will be allocated at the discretion of the municipality.

20.9 A customer may not elect how an account is to be settled if it is not settled in full or if there are arrears.

21. LEGAL ACTION

21.1 Where an account rendered to a customer remains outstanding for more than sixty (60) days the Chief Financial Officer or in his absence the Director Revenue shall :

- a) Hand the customer's account over to a debt collector or an attorney for collection.
- b) Institute legal proceedings through its authorised agents or attorney against a customer for the arrears; or

21.1.1 if the Chief Financial Officer is of the opinion that the institution or continuation of proceedings for the recovery of any amount shall be fruitless or not cost effective the Chief Financial Officer may recommend the Council that such action not be commenced or discontinued or terminated.

21.1.2. Legal steps shall be taken to collect arrears such as in the following cases;

- Where cut-off action yielded no satisfactory result;
- Where no cut off action is possible due to the nature of the services for which the account has been rendered

21.1.3 A pre-investigation into the account and debtor details is carried out before the preparation of a summons. The data of an appointed Credit Bureau is utilized. Telephonic or other forms of contact may be made with the debtor, at the municipality's discretion, prior to the issue of summons and / or other legal proceedings;

21.1.4 The following table shall be utilized to show the thresholds in respect of the debt value and the recovery action therein:

DEBT VALUE RAND	RECOVERY ACTION
Up to R500	Letter of Demand and/or Summons at the discretion of the C.F.O.
from R501 to R1000	Letter of Demand - Proceed to the issue of summons should the debtor appear to be of sufficient financial stature. Any further legal action is at the discretion of the Chief Financial Officer or the Director Revenue in his absence.
From R1000 onwards	Letter of Demand – Proceed to the issue of summons. Assess the likely financial stature of the debtor, incur tracing costs where appropriate and proceed along the legal route reviewing at each stage whether it is viable to continue incurring costs.

21.1.5 If the Chief Financial Officer or in his absence the, Director Revenue is of the opinion that the institution or continuation of proceedings for the recovery of any amount shall be fruitless or not cost-effective, the Chief Financial Officer may recommend to the Council that such action be not commenced, or be discontinued or terminated.

21.1.6 The council shall then approve the write-off of such arrears, if it is satisfied with the reasons provided.

21.2 All Offers of Compromise, out of court settlement offers and/ or settlement offers for full and final payment received are to be approved by the Council.

- 21.3 The Municipality may enforce any other rights or exercise any power conferred on it by any other legislation.
- 21.4 The Municipality may through its own internal policy proceed to recover all outstanding debt and charge disbursements and administration and collection charges.
- 21.5 The Chief Financial Officer shall be authorised to approve the writes off, of all irrecoverable debts up to the value of R500.00, only on condition that satisfactory reason has been provided.

21.6 COMPLIANCE AND ENFORCEMENT

- 21.6.1 Violation of or non-compliance with this policy will give a just cause of disciplinary steps to being taken.
- 21.6.2 It will be the responsibility of Accounting Officer to enforce compliance with this policy.

22. TERMINATION / TRANSFER OF ELECTRICITY ACCOUNTS

- 22.1. A customer who intends to terminate or transfer a municipal service shall notify the Municipality in writing within 14 days prior to the date of termination or transfer and shall also furnish the Municipality with the forwarding address.
- 22.2 A final reading shall be recorded on the termination date and the customer will be billed for the consumption.
- 22.3 If a current tenant terminates his/her account, the meter and the outstanding debt on that property automatically reverts back to the owner account and no further applications for tenants will be accepted
- 22.3. The deposit shall be appropriated against the account. Should a credit balance remain on the account, after appropriation of the deposit, such credit balance may be refunded to the customer or transferred to the new municipal service.
- 22.4. A final account that remains unpaid for a period of 30 days shall be:-
- (a) transferred to that ~~account holder's~~ owners current account;
 - (b) recovered through our debt collection procedure.
- 22.5 No application for services shall be processed until arrear debt is settled or an arrangement has been made

22A. REFUNDS

- 22 A (1).1 Refunds shall only be issued, provided that all the customers' accounts are paid in full, credits on accounts shall be refunded, on application, as follows:
- a) To the account holder, for rates and services account;
 - b) To the owner, where the owner pays the tenants account;

c) To the conveyancer to pay the buyer or seller, on transfer of a property, this includes any credits that may arise from an objection appeal outcome or an over payment of the account.

23. AGREEMENT WITH EMPLOYERS

The Municipality in terms of section 103 of the Act may with the consent of a person liable to the municipality for the payment of rates or other taxes or fees for municipal services, enter into an agreement with that person's employer to deduct from the salary or wages of the person-

- 23.1. Any outstanding amounts due by that person to the Municipality; or
- 23.2. Such regular monthly amounts as may be agreed.
- 23.3. The onus to introduce such arrangements remains with each employer/ employee

24. STAFF IN ARREARS

24.1. Item 10 of Schedule 2 to the Act states : - "A staff member of the Municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months and a municipality may deduct any outstanding amounts from a staff member's salary after this period.

24.2. The Municipality shall liaise with the relevant staff and their departmental representatives and issue the necessary salary deduction instruction where appropriate, in terms of the Provisions of the Basic Conditions of Employment Act and other legislation.

24.3. No special treatment shall be afforded to staff member whose accounts are in arrears.

24.4. Once the arrears or debt is settled in full, the account will automatically revert to staff group account.

25. COUNCILLORS IN ARREARS

A councillor may not be in arrears to the Municipality for rates and service charges for a period longer than 3 months in terms of Section 12A of the Act.

25.1. The Municipality, upon consultation with the Councillor, shall make appropriate arrangements to have the arrears paid.

25.2. The Municipality shall liaise with the relevant Councillor and the Speaker, in order to issue the necessary salary deduction instruction where appropriate.

25.3. No special treatment shall be afforded to the Councillor whose accounts are in arrears.

25.4. Once the arrears or debt is settled in full, the account will automatically revert to the group account.

PART B – DEBT COLLECTION PROCEDURES

B1. Municipal accounts shall be paid on the due date as indicated on the account and non-payment of accounts will result in debt collection action.

PART 5: QUERIES, COMPLAINTS AND APPEALS**26. ARREAR MESSAGE ON ACCOUNTS**

26.1 When a monthly account is in arrears, the next account will clearly highlight an appropriate reminder message.

27.1 CONVENTIONAL ELECTRICITY METERS

27.1.1 Disconnection orders are issued after final payment date. Where arrears are brought forward, the above may not apply.

27.1.3 If an occupier account appears on the disconnection list twice, the account is automatically transferred to the owner account iro S118(3), S102(1) (a) of MSA and S3.1 of the credit control policy

27.1.4 Re-connection instructions are issued as soon as:

- a) payment is received at an on-line facility:
- b) proof of payment at an off-line facility is received; or

c) Payment of 40% of the arrears together with the current account is received irrespective of the final payment date of the current account which must include the disconnection and reconnection fee. Thereafter payment of the arrear balance plus the current installment shall be paid over a maximum period of 6 months. No further arrangements will be entertained unless such period may be extended at the discretion of the Chief Financial Officer. Re-connection of the electricity services is not guaranteed to be effected within the same day of payment.

27.1.5. Follow-up meter readings within one month are taken for all customers who fail to respond to the physical disconnection to ensure that the supply has, in fact, been disconnected and no payment received.

27.1.6 Where instances of illegal reconnection of supplies are detected by KwaDukuza Municipality, the supply is again disconnected by a more stringent method. Reconnection thereafter will only be effected if the relevant penalty tariff charges / disconnection fees together with any arrears are paid in full together with the current account.

- 27.1.7 Further instances of tampering will result in the disconnection of the electricity supply and the removal of the relevant metering and connection equipment. Customers in such instances will then need to pay for the full costs of the new connection of a prepaid meter and all outstanding arrear charges before installation of the prepaid meter.
- 27.1.8. Electricity metering and connection equipment remain the property of the Municipality at all times and anyone involved in instances of tampering, damaging or theft thereof is committing a criminal offence and will be liable for prosecution and or civil claims/penalties by the Municipality.
- 27.1.9 The owner of the property shall be notified if the tenant has been disconnected for the second time

27.2 PREPAID METERS

- 27.2.1 Applications for prepaid electricity meter shall only be accepted from the Owner of the property.
- 27.2.2 The owner shall ensure that:
- a) All applications are processed at the electricity department at KwaDukuza Municipality.
 - b) The applicant is to obtain from the enquiry clerk at the Finance Department the full balance of any amount due, owing and payable in respect of any municipal account
 - c) The applicant shall pay the outstanding municipal account in full
 - d) Once payment has been made, the enquiries clerk at the Finance department shall issue a certificate to the customer reflecting that outstanding electricity has been paid
 - e) The consumer shall only be able to purchase the prepaid meter from the electricity department after the certificate has been handed to the Electricity department together with the quoted price.
 - f) Councils preferred metering system for domestic and certain business consumers is the prepayment metering system.
 - g) Arrear debt of consumers with prepayment electricity meters can be dealt with in terms of debt collection facilities available on the prepayment electricity system.

27.3 CREDIT AGREEMENTS

- 27.3.1 The Municipality may, at its discretion, enter into a Credit Agreement with customers in arrears for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, duties and community charges. Such agreement must include maintenance of the current monthly charges.
- 27.3.2 The owner of a property must consent in writing to a Credit Agreement with the municipality and his tenant, whereby he acknowledges that he

is jointly and severally liable for all arrears should his tenant default.

- 27.3.3 Re-connection and disconnection fees, where applicable, must be paid in full before any Credit Agreement can be entered into.
- 27.3.4 By entering into a Credit Agreement the customer acknowledges that failure to meet any installment will result in prompt disconnection action being taken. This does not preclude any legal action that the Municipality may take.
- 27.3.5 Credit Agreements negotiated on business accounts shall require the agreement to be signed by a duly authorised Director / Member of the company and or close corporation. Such director and member shall be obliged to sign a personal surety to secure the payment of the company and or close corporation's liability to the Municipality. Under no circumstances are agreements to be completed without such sureties.
- 27.3.6 Credit agreements negotiated with Trusts shall require such agreement to be signed by a duly authorised trustee of the trust. However, all trustees are obliged to secure the indebtedness of the trust by signing a personal surety jointly and severally to secure the payment of the trusts liability to the Municipality. Under no circumstances are agreements to be completed without such sureties.
- 27.3.7 Details of the original amount of the Credit Agreement, the monthly instalments, and the current balance outstanding thereon, are included on each subsequent account until such time as the Credit Agreement is liquidated by full payment of the debt.
- 27.3.8 Credit Agreements may **not** be granted where:
- a. Arrears have arisen due to dishonoured cheques, direct debit reversals etc;
 - b. Instances of repeat meter tampering have been identified, or
 - c. The services have been removed.
- 27.3.9 Telephonic and other electronic request for payment. Council shall authorise credit control to:-
- a) Telephone customers between the hours of 18h00 to 20h00 to advise of the arrear account and request payment
 - b) To engage the services of a service provider to forward SMS messages to all customers in arrears

PART 6: ARREARS

28. INTEREST /PENALTIES/ ADMINISTRATION CHARGES ON OUTSTANDING ACCOUNTS

The Municipality may in terms of Section 97(1)(e) read with Section 75A (as amended by G.G. No. 24149 dated 05/12/2002) of the Act shall:

- 28.1 Charge interest and or penalties as specified in the tariff of charges from time to time.
- 28.2 Charge 10% administration charges raised on the outstanding rates for the current year.:
- (a) On annual rates payers:
 - 60 days succeeding the final due date.
 - (b) Monthly rate payers:
 - administration charges shall be raised on the 1st of July on all outstanding rates not paid as at the 30th June each year
 - (c) On monthly rates accounts that have been changed to annual billing as a result of arrears, a 10% administration charge will be raised 60 days after that change.
- 28.3 Charge all costs incurred in the debt collection commission (if applicable) once the debt has been handed over for collection.
- 28.4 The general power to levy and recover administration charges and interest on any outstanding amount shall be determined by the municipality by resolution passed by the Municipal Council from time to time.

29. DEBT COLLECTION

- 29.1. Municipal accounts must be paid on the due date as indicated on the account and non-payment of accounts will result in debt collection action. Where an account rendered to a customer remains outstanding for more than 60 (sixty) days the municipality or its authorised agent may: -
- (a) Institute legal proceedings against a customer for the arrears; or
 - (b) Hand the customer's account over to a debt collector or an attorney for collection.
- 29.2. A customer will be liable for any legal fees, cheque costs, postal charges, short message services (sms) charges, administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit, as may be determined by the Municipality from time to time.
- 29.3 In the event of an occupier account being in arrears for more than 30 days, the registered owner will be informed of the arrears on the account and Council's intention of terminating the account and services and linking the meter to the owner's account. The debt will revert to the owner's account.
- 29.4. In the event of occupier final account being in arrears for more than 30 days, the registered owner will be informed of the arrears on the account and Council's intention of terminating the account and linking the meter to the owner's account. The debt will thereafter revert to the owner's account.

PART 7: ARRANGEMENT FOR THE PAYMENT OF ARREARS**30. ARRANGEMENT**

- 30.1. A customer may enter into an arrangement with the Municipality for the repayment of an arrear account by concluding:
- (a) An acknowledgement of debt duly signed by both parties.
 - (b) A Consent to judgment.
 - (c) An emolument attachment order.
 - (d) Acknowledge that interest will be charged at the prescribed rate.
 - (e) Acknowledge that if the arrangements being negotiated later are defaulted on, disconnection of electricity or blocked from buying electricity on the Prepayment System will follow immediately, as will legal proceedings. Acknowledge liability of all legal costs incurred.
 - (f) Only account holders with positive proof of identity or an authorised agent with a power of attorney will be allowed to enter into an arrangement for the payment of arrear accounts in instalments.
 - (g) Failure to honour the agreement will lead to immediate blocking or restriction from purchasing prepaid electricity, disconnection of electricity, as well as legal action.
 - (h) Prior concluding the agreement the owner shall be compelled to produce the prepaid electricity card and or conventional meter number.
- 30.2. A customer shall be charged interest on an arrear account at the prescribed rate of interest.
- 30.3. Customers with electricity service accounts in arrears shall consent to the conversion of the electrical meter to a prepaid meter should the deposit held be less than the cost of conversion. The cost of such prepaid meter shall be paid in full before reconnection.
- 30.4. The municipality or its authorised agent shall require a customer to first pay its current account before entering into an agreement to pay the arrears and shall pay every current municipal account in full and on time during the period over which such arrangement extends.
- 30.5. The municipality reserves the right to:
- 30.5.1. Raise the security deposit requirement of such customer who enters into an agreement in terms of clause 30.1. above, and
 - 30.5.2. Demand that a Deed of Suretyship be completed.
- 30.6. Electricity/Consolidated Bill: Each defaulting account holder will be allowed to make a first Payment of 40% of the arrears, together with current account,

irrespective of the final payment date of the current account, plus the disconnection and re-connection fees. Thereafter, payment of the balance plus current instalment shall be paid over a maximum period of 6 months.

- 30.6.1 The Chief Financial Officer or in his absence the Director Revenue shall be authorized to vary the arrangement as stipulated in clause 18.6 above, at his discretion.
- 30.7 Reconnection of the electricity services is not guaranteed to be effected on the same day of payment.

31. Arrangement for Payment of Arrear Accounts

- 31.1 The Municipality may, at its discretion, enter into a Credit Arrangement to Pay with customers in arrears for ~~unmetered~~ municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, duties and community charges. Such agreement must include maintenance of the current monthly charges.
- 31.2 All services must be consolidated into one account before an acknowledgement of debt is entered into.
- 31.3 The owner of a property must consent in writing to a Credit Agreement with the municipality and his tenant, whereby he acknowledges that he is jointly and severally liable for all arrears should his tenant default and that :
- 31.3.1 Re-connection and disconnection fees, where applicable, must be paid in full before any Credit Agreement can be entered into.
- 31.3.2 By entering into an Arrangement to Pay the customer acknowledges that failure to meet any instalment will result in prompt disconnection action being taken or will be blocked from buying electricity on the Prepayment System and the balance of the arrear account together with current account. Interest raised on such account will immediately become due and payable to the Municipality. This does not preclude any legal action that the Municipality may take.
- 31.3.3 Arrangement to Pay negotiated on business accounts shall require the agreement to be signed by a duly authorized Director / Member of the company and or close corporation. Such director and member shall be obliged to sign a personal surety to secure the payment of the company and or close corporation's liability to the Municipality. Under no circumstances are agreements to be completed without such sureties.
- 31.3.4 Arrangement to Pay negotiated with Trusts shall require such agreement to be signed by a duly authorized trustee of the trust. However, all trustees are obliged to secure the indebtedness of the trust by signing a personal surety jointly and severally to secure the payment of the trusts liability to the Municipality. Under no circumstances are agreements to be completed without such sureties.
- 31.3.5 Details of the original amount of the Credit Agreement, the monthly installments

and the current balance outstanding thereon are included on each subsequent account until such time as the Credit Agreement is liquidated by full payment of the debt.

31.7 Arrangement to Pay may not be granted where:

- a. Arrears have arisen due to dishonored cheques, direct debit reversals etc;
- b. Instances of repeat meter tampering have been identified, or
- c. The services have been removed.

31.8 Telephonic and SMS request for payment. Council shall authorize credit control to:-

- a) Telephone customers between the hours of 18h00 to 20h00 to advise of the arrear account and request payment
- b) To engage the services of a service provider to forward SMS messages to all customers in arrears

32. DEBT ARRANGEMENT

Customers have been categorised into the following income categories:-

- Indigent (Gross household income of less than the monthly amount determined by Council)
- Not indigent (Gross household income of more than the monthly amount determined by Council for indigent)
- Non-domestic (excludes Government Departments)
- Government Departments.

32.1 The principle of limited vending to encourage customers with arrears to buy a pre-determined amount of electricity per month, will apply.

32.2 The principle that the monthly account must be paid, will apply.

32.3 Indigent Customers (Prepaid electricity meter)

- (a) Indigent customers with arrears will be put on the information block, which will notify them that a purchase can be made but that after the purchase the information block will be converted to total block, and that the total block can only be removed after the necessary payment arrangement have been made with Council.

- (b) Indigent consumers will be required to pay 40% of the arrears, together with current monthly instalment, irrespective of the final payment date of the current account, plus payment of the balance of the arrears shall be paid over a maximum period of 36 months.
- (c) The total block can only be removed after the necessary payment arrangements have been made with Council
- (d) Every time the consumer makes a purchase, 40 percent of the amount tendered for the purchase of electricity shall be allocated towards arrear debt. This type of block is another method to collect arrear debt and not the current account. A percentage of each purchase of electricity is allocated towards the debtors arrear balance and debtors are also blocked from buying electricity for monthly charges.
- e) Indigent customers will be allowed to purchase average monthly electricity consumption of such consumer with the maximum amount of electricity as determined from time to time.

32.4 Arrangements by indigent customers(Conventional Electricity Meter)

- (a) Indigent customers may have their credit electricity meters converted to prepaid electricity meters at Council's discretion. **All cost of conversion shall be paid by the customer.**
- (b) Arrangement for the payment of debt shall be payment of 40% of the arrears, together with current monthly instalment, irrespective of the final payment date of the current account, plus payment of the balance of the arrears shall be paid over a maximum period of 36 months.
- c The Chief Financial Officer or in his absence the Director Revenue shall be authorised to vary the arrangement as stipulated in clause 30.6 above, at his discretion.

32.5. Non-Indigent Customers

- (a) Non-indigent customers with arrears will be put on the information block, which will notify them that a purchase can be made but that after the purchase the information block will be converted to total block, and that the total block can only be removed after the necessary payment arrangement with Council.
- b) Payment of 40% of the arrears, together with current monthly instalment, irrespective of the final payment date of the current account,

plus payment of the balance of the arrears shall be paid over a maximum period of 6 months.

- c) The Chief Financial Officer or in his absence the Director Revenue shall be authorised to vary the agreement as stipulated in Clause 30.6 above, at his discretion.

33. Debt arrangement – Prepayment system

- 33.1 The prepayment electricity system implemented by Council has a debt management facility.

The Debt Management facility provides various blocking types, which can be utilised to collect arrear debt.

- 33.2 The various blocking types can be described as follows:

- **Information/Partial Block**

The system will inform the consumer that a purchase can be made but that after the purchase a total block will be put on the consumers account automatically by the system. To unblock the system:-

The arrear debt must be paid in full, or Arrangements must be made to pay off the arrear debt and the arrangements have been captured on the system.

- **Total Block**

The consumer is blocked from buying electricity due to arrear debt and can be unblocked when:-

The arrear debt is paid in full. Arrangements have been made to pay off the arrear debt and the arrangements have been captured on the system.

- 33.3 Minimum monthly instalment with monthly vend limit

The consumer arranges to pay a minimum monthly instalment and to purchase a limited amount of electricity to be purchased is to prevent consumer's from purchasing more than one month's electricity to avoid arrear payments. The minimum monthly instalment includes the consumer's monthly account plus a payment to arrears. If the consumer pays less than the minimum instalment the system will not allow purchase of electricity. If the consumer pays more, the additional amount is taken off the outstanding arrears, but the monthly instalment stays the same until his arrears are paid off.

- 33.4 Minimum weekly instalment with weekly vend limit

Same as 33.3 above but weekly instalments are arrangements with weekly limits on the amount of electricity to be purchased.

33.5 Percentage Blocking

Every time the consumer makes a purchase, 40 percent of the amount tendered for the purchase of electricity shall be allocated towards arrear debt. This type of block is another method to collect arrear debt and not the current account ~~but does not collect the monthly account~~. A percentage of each purchase of electricity is allocated towards the debtors arrear balance and debtors are also blocked from buying electricity for monthly charges.

34. BAD AND DOUBTFUL DEBT PROVISION**BAD AND DOUBTFUL PROVISIONS SHOULD BE CALCULATED AND PROVIDED IN THE ACCOUNTING RECORDS AS FOLLOWS:-**

34.1. The provision for bad and doubtful debt will be calculated in terms of the relevant generally recognised accounting practices.

34A. DEBT RELIEF PROGRAMME

- 34.(A)(1) Council shall promote assistance to the poor by embarking on a debt relief programme. The indigent customer who cannot conclude an Acknowledgement of debt as per Council Credit Control and debt collection policy, shall adhere and comply with the following procedures:
- a) The indigent Customer shall be required to complete the income and expenditure form, in order to determine the minimum amount payable upfront when concluding the Acknowledgement of debt. All supporting documents shall be produced by an applicant, in order for Finance to conduct thorough system verification.
 - b) The acknowledgement of debt shall be approved only on condition that the system verification shall prove to be correct.
 - c) Upon approval of Acknowledgement of debt, the outstanding debt owed by indigent customer, shall not attract any interest and penalties, only on condition that the customer pays or maintains the current account

35. COPY OF AGREEMENT TO CUSTOMER

A copy of the agreement shall be made available to the customer.

36. FAILURE TO HONOUR ARRANGEMENT

In the event of a customer failing to comply with an agreement for the payment of arrears in installments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, (including legal costs) costs and penalties, including payment of a higher deposit will immediately become due and payable, without further notice and the municipality or its authorised agent may: -

- 36.1. Disconnect the customers electricity service, subject to the provisions of section 4.3.7 of nersa. 047-1-1999 issued by the National Electricity regulator as amended from time to time.

- 36.2. Legal action for the recovery of the arrears; and
- 36.3. Hand the customer's account over a debt collector or an attorney for collection.

37. RE-CONNECTION OF SERVICES

An agreement for the payment of an arrear amount in installments, entered into after the electricity services has been discontinued shall not result in the services being restored until:

- 37.1. The arrears, any interest thereon, administration fees, legal costs and any other costs and any penalties, including payment of higher deposit, are paid in full; or
- 37.2. In addition to any payments referred to in subsection 30.1. the customer shall pay the standard re-connection fee as determined by the municipality from time to time, prior to the reconnection.

38. RECOVERY THROUGH PREPAID METERS

If a customer is in arrears for any outstanding debt to the Municipality the customer shall be blocked from buying electricity until such time that the customer has made an arrangement to pay the arrear debt.

CHAPTER 3

RATES ASSESSMENT

39. AMOUNT DUE FOR ASSESSMENT RATES

- 39.1. The provisions of Chapter 3 shall apply in respect of the recovery of assessment rates.
- 39.2. All assessment rates due by owners are payable by fixed date as determined by the municipality in its credit control and debt collection policy.
- 39.3. Joint owners of property shall be jointly and severally liable for payment of assessment rates.
- 39.4. Assessment rates shall be levied in equal monthly instalments. When levied in equal monthly instalments the amount payable shall be included in the municipal account.

39.5. A property owner remains liable for the payment of assessment rates included in municipal accounts, notwithstanding the fact that: -

- (a) The property is not occupied by the owner thereof; and/or
- (b) The municipal account is registered in the name of a person other than the owner of the property.
- (c) The furnishing of an incorrect address.

40. MUNICIPAL CLEARANCE CERTIFICATES

Subject to Sections 118(1) and (1A) of the Act, the following shall apply to the issue of a Municipal Clearance Certificate for the purpose of effecting transfer of a property to a new owner.

40.1 Assessments

40.1.1 Application shall be made by the Conveyancing Attorney, in the prescribed format by providing the following information in respect of the property in question:

- i. Present owner of the property;
- ii. Property description;
- iii. Physical address;
- iv. Rates Account No's;
- v. Electricity Account No's. (Or electricity meter no's.);
- vii Purchasers details; identity numbers and postal address and Purchasers domicilium citandi et executandi;
- viii With respect to Vacant Land, an Affidavit from the seller that the property does not have a electricity supply connection and an undertaking from the purchaser that should a electricity supply connection be discovered on the property and such account is in arrears, then the purchaser accepts liability for such arrears.

Copies of all the accounts must accompany the application. If the relevant information is not provided, the application will be returned to the conveyancer.

40.1.2 Every effort will be made to issue an assessment within five working days of receipt of application. Certain delays may be experienced in respect of:

- i. New sub-divisions;
- ii. Pending building plans;
- iii. Special investigations.

With respect to the aforesaid, the following is required to be submitted to the consultant valuers:

- a. a copy of the survey diagrams/general plans;
- b. a copy of the sale agreements;
- c. a copy of the relevant proclamation notices;
- d. seller contact details; and
- e. building plans on request.

Conveyancers will be notified of possible delays.

40.1.3. The assessment shall include the following:

- i. Rates for the balance of the year (to 30 June) still outstanding.
Where application is made after 01 January the assessment shall be for a period of six (6) months until the rate increases for the new financial year have been finalized and approved. After the 01st March the assessment will revert to the end of the new financial year.
- ii Electricity - Actual balance outstanding at date of assessment being approved less any deposit on hand.
- iii Other - Actual balance outstanding at date of application.
- iv Municipal Certificate Fee- As per the prescribed tariff.

40.1.4 Period of validity

The assessment shall remain valid for a period of 60 days. If payment has not been received within this period, a re-assessment may be required and payment of a further municipal clearance fee will apply.

40.1.5 The onus rests with the seller to ensure:

- i that all buildings on the property are in accordance with the building plans approved by the Municipality;
- ii the premises in question are being utilized in accordance with its zoning;
- iii that all outstanding accounts accruing to the Municipality in respect of the property is fully paid.

40.1.6 Any discrepancies in respect of the above may result in delays in issuing of a clearance certificate, and in addition may result in levying of additional backdated rates and / or penalties and / or service charges.

40.1.7 Any amounts paid shall be appropriated to the oldest debt first.

40.1.8 Municipal Clearance Certificates

- i Every effort will be made to issue a Municipal Clearance Certificate within five days of receiving payment;
 - ii Payment on the assessment must be made in cash or by bank guarantee cheque;
 - iii An unconditional letter of undertaking maybe accepted in lieu of a cash payment in fully motivated exceptional circumstances, and subject to the written approval of the Chief Financial Officer or in his absence the Director Revenue of the Municipality.
 - iv The letter of undertaking must be :
 - Issued by the Conveyancing Attorney, in the prescribed format;
 - Unconditional;
 - For the full amount outstanding; and
 - For a specified period of time acceptable to the Municipality
- 40.1.8.1 Bank Guarantees shall not be accepted.
- 40.1.8.2 An Attorney's Trust cheque may be accepted in lieu of cash payment.
- 40.1.8.3 There shall be no refunds on the cancellation of a sale.
- 40.1.8.4 The Certificate shall be valid for a period of 30 days from date of issue.
- 40.1.8.5 No certificate , in terms of Section 118 of the Systems Act shall be issued where the property owner has not complied with any relevant legislation, policy or agreement relating to the property in question.

41. DEFAULT IN PAYMENT OF MONTHLY INSTALMENTS

In the event of the ratepayer failing to pay any three monthly instalments during the financial year in which the rates are raised then the ratepayer shall be liable to pay the full outstanding rates.

42. PROPERTY RATES

- 42.1 All properties within the boundary of the KwaDukuza Municipality are to be valued in terms of the legislation applicable to the valuation of properties for the purposes of levying property rates.
- 42.2 Rebates on rates may be granted by Municipality in terms of the Municipality's rating policy.

42.3 Owners must pay the property rates in eleven equal monthly instalments or over a period as determined by Council. Regular monthly instalments payments must be maintained.

43. **PAYMENT OF CURRENT RATES**

43.1. In terms of Section 26 of the Municipal Property Rates Act:

- i) A municipality may recover a rate –
 - (a) on a monthly basis or less often as may be prescribed in terms of the Municipal Finance Management Act; or
 - (b) annually, as may be agreed to with the owner of the property.
- ii)
 - (a) If a rate is payable in a single amount annually it must be paid on or before a date determined by the municipality.
 - (b) If a rate is payable in instalments it must be paid on or before a date in each period determined by the municipality.

43.2 In the event of the ratepayer failing to pay any three monthly instalments during the financial year in which the rates are raised then the ratepayer shall be liable to pay the full outstanding rates.

44. **UNALLOCATED CONSUMPTION**

- a) When electricity consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised the relevant charges shall be raised against the registered owner.
- b) When a customer terminates a consumption account and no new customer registers, a property is deemed to be vacant. The account shall be forwarded to the owner until he advises the Municipality to the contrary:--
 - i) **for business premises** - instructions to disconnect the electricity supplies to the property must be issued immediately and auctioned;
 - ii) **for residential premises** - a courtesy letter is forwarded to the new occupier or owner within 7 days advising of the need to register as a customer and indicating the application procedures that need to be followed. Failure to respond to that letter within a 7 day period will result in the issue of supply disconnection instructions.

45. **ILLEGAL ELECTRICITY CONNECTION**

45.1 In the event of it being found that any electricity connection had been made illegally by any person than then the following shall take place:

- a) the electricity shall be disconnected with immediate effect.
- b) The occupier/owner/developer jointly and severally shall pay a penalty as per the tariff of charges.
- c) The occupier/owner/developer shall be jointly and severally liable for consumption charges.

- d) The occupier/owner/developer shall be jointly and severally pay interest on the consumption Charges at the rate as determined by Council in the tariff of charges from time to time, from the date of disconnection to date of payment.
- e) The applicant shall pay the outstanding municipal account in full, including current instalment, interest and penalty fees, payment of unauthorized consumption, disconnection and reconnection fees, and increased in a deposits as determined by Council in the tariff of charges, shall become due and payable before any reconnection can be sanctioned.
- f) Where a consumer and/ or any person has contravened sub-section (1) and such contravention has resulted in the meter recording less than the true consumption, the Municipality shall have the right to recover the full cost of his estimated consumption, retrospective to the determined date of tempering /interruption to the electricity.
- g) Application for new services shall only be accepted from the owner of the property.
- h) Application for new services shall only be accepted from the owner of the property.
- i) Reconnection of electricity services shall be undertaken by Electrical Department upon receipt of the clearance certificate from Finance Department.
- j) No acknowledgement of debt shall be entertained.
- k) Council reserves the right to lay criminal charges and/or to take any other legal action against the customer or the consumer.

45.2 TAMPERING AND/OR THEFT OF SERVICES ON PREPAID ELECTRICITY METER

- 45.1 Any person found to be illegally connected to municipal services, tampering with prepaid electricity meters, will be prosecuted and shall be liable for:
- 45.2 The total outstanding debt, including the current instalment, interest and penalty fees (tamper fee), assessment of unauthorized consumption, will become due and payable before any reconnection can be sanctioned
- 45.3 The Customer or Consumer shall be obliged to make application for new electricity services.
- 45.4 Application for new services shall only be accepted from the owner of the property.
- 45.5 All applications are made and processed at the electrical department of KwaDukuza Municipality.
- 45.6 The applicant shall obtain from the enquiry clerk at the finance department, the full balance of any amount due, owing and payable in respect of any municipal account
- 45.7 The applicant shall pay the outstanding municipal account in full including the current instalment, interest and penalty fees (tamper fee), payment of unauthorized consumption, will become due and payable before any reconnection can be sanctioned
- 45.8 Where a consumer and/ or any person has contravened sub-section (1) and such contravention has resulted in the meter recording less than the true consumption, the Municipality shall have the right to recover the full cost of his estimated consumption, retrospective to the determined date of tempering /interruption to the electricity.

- 45.9 Once payment has been made, the enquiries clerk at finance department shall issue a certificate to the customer reflecting that the outstanding municipal services and rates accounts have been paid in full.
- 45.10 On instances where the prepaid electricity meter has been found to be tampered with; Councils may prefer conversion of prepaid electricity metering system to conventional electricity metering system, conversion shall be implemented at the customers cost.
- 45.11 Reconnection of electricity services shall be undertaken by Electrical Department upon receipt of the clearance certificate from Finance Department.
- 45.12 No acknowledgement of debt shall be entertained.
- 45.13 Council reserves the right to lay criminal charges and/or to take any other legal action against the customer or the consumer.

CHAPTER 4

PROVISION OF MUNICIPAL SERVICES TO INDIGENT CUSTOMERS

46. QUALIFICATION FOR REGISTRATION AS INDIGENT CUSTOMER

- 46.1 Customers shall qualify to be registered as an indigent if the combined gross income of all occupants of the household over the age of 18 years is less than that amount determined by the municipality from time to time.
- 46.2 Indigent subsidy shall apply to a household and not an individual as the underlying principle of the Municipality in the provision of a service is that the service is provided to a property.
- 46.3 A household shall not be entitled to a subsidy where the aggregate income of the members of the household exceeds the applicable subsidized levels.

47. INDIGENT POLICY

The provisions of municipal services to indigent customers is subject to the policy guidelines as set out in the Indigent Policy of the municipality.

48. APPLICATION FOR REGISTRATION

- 48.1 A household who qualifies as an indigent customer must complete the application form entitled "Application for Registration as Indigent Customer" attached as Annexure B to these bylaws.
- 48.2 Any application in terms of subsection (1) must be accompanied by: -
- (a) Documentary proof of income, such as a letter from the customer employer, a salary advice, a pension card, unemployment fund card; or

- (b) An affidavit declaring unemployment or income; and
- (c) The customer's latest municipal account in his/her possession; and
- (d) A certified copy of the customer's identity document; and
- (e) The names and identity numbers of all occupants and their dependants over the age of 18 years who are resident at the property.

48.3. A customer applying for registration as an indigent customer shall be required to declare that all information provided in the application form and other documentation and information provided in connection with the application is true and correct.

48.4. The municipality or its authorised agent shall counter-sign the application form and certify that the consequences and conditions of such an application for the customer were explained to the customer and that the customer indicated that the content of the declaration was understood.

49. APPROVAL OF APPLICATION

49.1. The municipality or its authorised agent may send authorised representatives to premises or households applying for registration as indigent customers to conduct an on-site audit of information provided prior to approval of an application.

49.2. An application shall be approved for a period of 12 months only. Subsidies will be forfeited if the applicant fails to submit proof of income or re-apply for the subsidy

50. CONDITIONS

50.1 The municipality or its authorised agent may upon approval of an application or any time thereafter install a pre-payment electricity meter for the indigent customer where electricity is provided by the municipality or its authorised agent when implemented.

50.2. A private residential property can only be registered as indigent under the following conditions:

- The municipal value of the land and buildings must not exceed an amount as determined by council.
- The member of a private household who is responsible for the payment of the service account must apply for the household to be registered as indigent.
- The total gross monthly income of all members of the household must not exceed the limit set by Council from time to time.
- The applicant as well as any other member of the household shall not own other fixed property other than the one on which they reside.

- The onus is on the recipient to inform the Municipality of any change in his/her financial status or personal household circumstances.

- (i) All existing indigent applicants shall be reviewed /entertained after a period of 9 months from the date of application to assess the provision of continued basic service for the ensuing financial year.

50.3. The Municipality shall apply the following indigent policies:

- 50.3.1 Electricity consumers will receive a number of kwh free as determined by council .
- 50.3.2 Refuse consumers living in low cost housing provided by Local, Provincial or Central Government will be charged a refuse tariff at a special rate covered by equitable share.
- 50.3.3 Rates residential properties with a land value as determined by the municipality from time to time is subject to a rebate.

51. APPLICATION EVERY 12 MONTHS

- 51.1. An indigent customer must re-apply for indigent support every 12 months, failing which the assistance will cease automatically.
- 51.2. The provisions of section 40 and 41 of these bylaws shall apply to any application in terms of subsection (1)
- 51.3. The municipality or its authorised agent cannot guarantee a renewal for indigent support.

52. SUBSIDISED SERVICES FOR INDIGENT CUSTOMERS

- 52.1. The Municipality may annually, as part of its budgetary process, determine the municipal services and levels thereof which will be subsidised in respect of indigent customers in accordance with national policy, but subject to principles of sustainability and affordability.
- 52.2. The Municipality will in the determination of municipal services which will be subsidized for indigent customers give preference to subsidizing at least the following services:
 - (a) Refuse removal services to a maximum of one removal per household per week.
 - (b) All rates levied on properties of which the municipal value as determined in the rates policy provided that if, in the case of any property or category of properties, it is not feasible to value or measure such, property, the basis on which the property rates thereof shall be determined, shall be as prescribed by the Municipality.
- 52.3. The municipality must, when making a determination in terms of subsection (1) give public notice of such determination.

52.4. Public notice in terms of subsection (3) must contain at least the following:

- (a) The level or quantity of municipal service which will be subsidised
- (b) The level of subsidy.
- (c) The method of calculating the subsidy.
- (d) Any special terms and conditions which will apply to the subsidy, not provided for in these bylaws.

52.5. Any other municipal services rendered by the municipality or municipal services consumed in excess of the levels or quantities determined in subsection (1) shall be charged for and the indigent customer shall be liable for the payment of such charges levied on the excess consumption.

52.6. The provisions of Chapter 3 shall *mutatis mutandis* apply to the amounts due and payable in terms of subsection (5).

53. FUNDING OF SUBSIDISED SERVICES

The subsidised services referred to in section 7 shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

54. EXISTING ARREARS OF INDIGENT CUSTOMERS

Arrears accumulated in respect of the municipal accounts of customers prior to registration as indigent customers will be either: -

- 54.1. Written off;
- 54.2. Applied as a surcharge to prepaid electricity coupons; or
- 54.3. Be attempted to be recovered through legal proceedings and/or extended term arrangements.

55. AUDITS

The municipality may undertake regular random audits carried out by the municipality or its authorised agent to: -

- 55.1. Verify the information provided by indigent customer;
- 55.2. Record any changes in the circumstances of indigent customers; and
- 55.3. Make recommendations on the de-registration of the indigent customer.

56. DE-REGISTRATION

- 56.1. Any customer who provides or provided false information in the application form and/or any other documentation and information in connection with the application shall automatically, without notice, be de-registered as an indigent customer from the date on which the municipality or its authorised agent became aware that such information is false.
- 56.2. An indigent customer must immediately request de-registration by the municipality or its authorised agent if his/her circumstances has changed to the extent that he/she no longer meet the qualifications.
- 56.3. An indigent customer shall automatically be de-registered if he does not meet the criteria as set out in the Debt and Credit Control Policy.
- 56.4. An indigent customer shall automatically be de-registered if an audit or verification concludes that the financial circumstances of the indigent customer has changed to the extent that he/she no longer meet the qualifications.
- 56.5.** Indigent support shall be withdrawn by the Municipality in the event of the recipient misusing the system or providing incorrect information. In this regard the Municipality shall:
- i. Recover from the recipient the amount of relief furnished by debiting his account.
 - ii. Apply the normal credit control in accordance with the Credit Control and Debt Control policy.
 - iii. Institute a criminal charge of fraud against the recipient.

CHAPTER 5

BUSINESSES WHO TENDER TO THE MUNICIPALITY

57. PROCUREMENT POLICY AND TENDER CONDITIONS

- 57.1. When inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to a condition that consideration and evaluation thereof will necessitate that the tenderer obtain from the Municipality a certificate stating that all relevant municipality accounts owing by the tenderer or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for the payments of arrears. To this end, copies of the municipality account and the identity documents of all directors, members or partners must be submitted together with the bid documents.
- 57.2. No tender shall be allocated to a person / contractor until suitable arrangement for the repayment of arrears, has been made. The tenderer must maintain arrangements and pay current installments as provided for in any contract with the Municipality.
- 57.3. Where payments are due to a contractor in respect of goods or services provided to the Council, any arrear amount owing to the Council shall be offset as a first

charge against such payments as provided for in the contract with the Municipality.

- 57.4 All tender documents and contracts relating thereto shall contain a condition allowing the Municipality to deduct any moneys owing to the Municipality from contract payments. Must be written into the agreements

CHAPTER 6

UNAUTHORISED AND ILLEGAL SERVICES

58. UNAUTHORISED SERVICES

- 58.1. No person may gain access to municipal services unless it is in terms of an agreement entered into with the municipality or its authorised agent for the rendering of those services.
- 58.2. The municipality or its authorised agent may, irrespective of any other action it may take against such person in terms of these bylaws by written notice order a person who is using unauthorized services to: -
- (a) Apply for such services in terms of Chapter 2 Part 1 of the Bylaws;
 - b) Pay the demand based component and tampering fees as prescribed in the tariff of charges.
 - (c) Undertake such work, as may be necessary to ensure that the unauthorized customer installation complies with provisions of these or any other relevant bylaws.
- 58.3. Any agreement, entered into before the date of coming into effect of these bylaws, and which is in full force and effect, shall be deemed to have been entered into in terms of these bylaws and shall remain in force and effect until cancelled.

59. ILLEGAL SERVICES

In the event of it being found that any electricity connection had been made illegally by any person then the following shall take place:

- 59.1. The electricity shall with immediate effect be disconnected.
- 59.2. The occupier/owner/developer jointly and severally shall pay a penalty as per the tariff of charges.
- 59.3. The occupier/owner/developer jointly and severally shall pay consumption charges.

59.4. The occupier/owner/developer jointly and severally shall pay interest on the consumption charges at the rate as determined by Council in the tariff of charges from time to time, from the date of disconnection to date of payment.

60. INTERFERENCE WITH INFRASTRUCTURE FOR THE PROVISION OF MUNICIPAL SERVICES

60.1. No person other than the municipality or its authorised agent shall manage, operate or maintain infrastructure through which municipal services are provided.

60.2. No person other than the municipality or its authorised agent shall effect a connection to infrastructure through which municipal services provided.

61. OBSTRUCTION OF ACCESS TO INFRASTRUCTURE FOR THE PROVISION OF MUNICIPAL SERVICES

61.1. No person shall prevent or restrict physical access to an infrastructure through which municipal services are provided.

61.2. If a person contravenes subsection (1), the municipality or its authorised agent may: -

(a) By written notice require such person to restore access at his/her own expense within a specified period, or

(b) If it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

62. ILLEGAL RE-CONNECTION

62.1. A person who illegally reconnects to a service, interferes with the infrastructure through which municipal services are provided, after such customers access to municipal services have been disconnected, such customers supply of electricity shall be immediately removed.

62.2. A person who re-connects to municipal services in the circumstances referred to in subsection 59.1 shall be liable for the cost associated with any consumption, notwithstanding any other actions which may be taken against such a person.

62.3. In the event that the demand based component was not paid, the tampering fee shall be applicable in terms of the tariff of charges.

63. IMMEDIATE DISCONNECTION

63.1. Immediate disconnection for failure to give information or supply of false information.

- 63.2. The provision of municipal services may immediately be disconnected if any person fails to provide information or provide false information reasonably requested by the municipality or its authorised agent.

CHAPTER 7

CUSTOMER CARE MANAGEMENT

64. CUSTOMER CARE MANAGEMENT

The Municipality's customer care and management is as set out in both Chapter 9 of the Act and the Credit Control and Debt Collection Policy.

The municipality shall, for the levying of rates and taxes for the municipal charges, within its final and administrative capacity, have the following principles pertaining to customer care and management:

- 64.1 Establish a sound management system between the customer and the municipality, to create a harmonious relationship between the customer and the municipality so that customer are treated with respect and dignity.
- 64.2 To establish a customer call centre, with a shared call facility to attend to the following:
- 64.3. To receive communication from customers regarding the quality of service, performance of the municipality and the accuracy of the accounts.
- 64.4. To enable customer to query and verify their accounts (metered electricity accounts, rates and refuse, sundry and housing) and to promptly resolve the query and rectify the inaccurate account. The queries or complaints in respect of account may be dealt with as follows:
- 64.4.1 A customer may lodge a query or complaint in respect of any accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
- 64.4.2 A query or complaint must be lodged with the municipality or its authorized agent before the due date for payment of the account.
- 64.4.3 A query or complaint must be accompanied by the payment of the average of the last three month's accounts where history of the account is available or an estimated amount provided by the municipality before payment due date until the matter is resolved.
- 64.4.4 The municipality or its authorized agent will register the query or complaint and provide the customer with a reference number.

64.4.5 The municipality or its authorized agent:-

- (a) shall investigate or cause the query or complaint to be investigate and
- (b) must inform the customer, in writing, of its finding within fourteen (14) days after the query or complaint was registered.

64.4.6 Failure to make such agreed interim payment or payments will render the customer liable for disconnection.

64.5. To inform the customer that if they are dissatisfied with the manner in which their query was handled to follow a stipulated procedure of appeal to the Chief Financial Officer who shall promptly attend to the complaint. The customer may appeal against finding of a municipality in respect of queries or complaints as follows:

64.5.1. A customer may appeal in writing against a finding of the municipality or its authorized agent in terms of Section 62 of the Act.

64.5.2 An appeal and request in terms of subsection (1) must be made in writing and lodged with the municipality within 21 days after the customer became aware of the finding referred to in section 64.4.5. above and must:

- (a) set out the reason for the appeal; and
- (b) be accompanied by any security determined for the testing of a measuring device, if applicable.

64.6. To ensure that the Assistant Director Credit Control receives daily reports on such queries and monitors the response time and the efficiency in dealing with the query.

64.7. To take reasonable steps to inform customers of the costs involved in the service, the changes to tariffs and policies, reasons for payment of the service fees and how their payments are utilized to provide the service.

64.8. To provide an accurate and verifiable metering system for electricity.

64.9. To provide regular and accurate accounts to the customer with details reflecting the basis for the calculation of the amount due in order to ensure that the consumer pays the account with satisfaction that the account is correct.

64.10. To provide:

64.10.1 An electronic facility for the payment of accounts to the municipality's bank account.

64.10.2 Adequate and accessible pay points within the jurisdiction of the municipality for the payment of accounts and the purchase of pre-paid electricity.

The municipality shall, for the levying of rates and taxes for the municipal charges, within its final and administrative capacity,

have the following principles pertaining to customer care and management:

- 64.11. Establish a sound management system between the customer and the municipality, to create a harmonious relationship between the customer and the municipality so that customers are treated with respect and dignity.
- 64.12. To establish a customer call centre, with a shared call facility to attend to the following:
- 64.12.1 To receive communication from customers regarding the quality of service, performance of the municipality and the accuracy of the accounts.
- 64.12.2 To enable customers to query and verify their accounts (metered electricity accounts, rates and refuse, sundry and housing) and to promptly resolve the query and rectify the inaccurate account. The queries or complaints in respect of account may be dealt with as follows:
- o A customer may lodge a query or complaint in respect of any accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
 - o A query or complaint must be lodged with the municipality or its authorized agent before the due date for payment of the account.
 - o A query or complaint must be accompanied by the payment of the average of the last three month's accounts where history of the account is available or an estimated amount provided by the municipality before payment due date until the matter is resolved.
- The municipality or its authorized agent will register the query or complaint and provide the customer with a reference number.
- o The municipality or its authorized agent:-
 - (a) shall investigate or cause the query or complaint to be investigate; and
 - (b) must inform the customer, in writing, of its finding within one month after the query or complaint was registered.
- 64.12.3 Failure to make such agreed interim payment or payments will render the customer liable for disconnection.

CHAPTER 8

OFFENCES

65. OFFENCES AND PENALTIES

Any person who: -

- 65.1. Fails to register and give information required by the municipality or its authorised agent in terms of these bylaws;
- 65.2. Assist any person in providing false or fraudulent information or assist in willfully concealing information;
- 65.3. Uses, tampers or interferes with municipal equipment, service supply equipment, reticulation network or consumption of services rendered;
- 65.4. Fails or refuses to give the municipality or its authorised agent such information as may reasonably be required for the purpose of exercising the powers or functions under these bylaws or gives such the municipality or its authorised agent false or misleading information, knowing it to be false or misleading;
- 65.4. Contravenes or fails to comply with a provision of these bylaws;
- 65.5. Fails to comply with the terms of a notice served upon him/her in terms of these bylaws, shall be guilty of an offence and liable upon conviction to the fines determined by a Chief Magistrate of the Magistrate's Court with jurisdiction in the area in which the offence has been committed or imprisonment as determined by a competent court.

CHAPTER 9

DOCUMENTATION

66. SIGNING OF NOTICES AND DOCUMENTS

A notice or document issued by the municipality in terms of these bylaws and signed by a staff member of the municipality or its authorised agent shall be deemed to be duly issued and must on its mere production be accepted by a court of law as evidence of that fact.

67. NOTICES AND DOCUMENTS

- 67.1. A notice or document issued by the municipality or its authorised agent in terms of these bylaws shall be deemed to be duly authorised if an authorised agent signs it;
- 67.2. Any notice or other document that is served on an owner, customer or any other person in terms of these bylaws is regarded as having been served: -
 - (a) If it has been delivered to that person personally;
 - (b) When it has been left at that person's place of residence, business or employment in the Republic with a person over the age of sixteen years;

- (c) When it has been posted by registered or certified mail to that person's last known residential address or business in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
- (d) If that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided in sub-sections (c); or
- (e) It has been posted in a conspicuous place on the property or premises, if any, to which it relates.

67.3. When any notice or other document must be authorised or served on the owner, occupier or holder of any property it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and is not necessarily the name of that person.

67.4. In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

67.5. When such notice is reflected on the face of an account such notice shall be deemed as adequate written notice for the supply to be disconnected when payment is not received on the due date stated on the statements.

68. **AUTHENTICATION OF DOCUMENTS**

Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated. If signed by the municipal manager or by a duly authorised officer of the municipality or the authorised agent of the municipality; such authority being conferred by resolution of the municipality, written agreement or by a bylaw.

69. **PRIMA FACIE EVIDENCE**

In legal proceedings by or on behalf of the municipality or its authorised agent, a certificate reflecting the amount due and payable to the municipality or its authorised agent, under the hand of the municipal manager, or suitably qualified municipal staff member authorised by the municipal manager or the manager of the municipality's authorised agent, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

70. **DEBT COLLECTION PROCEDURE**

The municipality has by resolution established a Credit Control and Debt Collection Policy only which regulates the debt collection procedure of the municipality. All debt collection is subjected to both the Bylaw and the Policy.

CHAPTER 10

GENERAL PROVISIONS

71. POWER OF ENTRY AND INSPECTION

Subject to the Provisions of Section 101 of the Act, the municipality or its authorised agent may enter and inspect any premises for any purpose connected with the implementation or enforcement of these bylaws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.

72. EXEMPTION

72.1. The municipality may, in written, exempt an owner, customer, any other person or category of owners, customers, ratepayers, users of services from complying with a provision of these bylaws, subject to any conditions it may impose, if it is of the opinion that the application of operation of that provision would be unreasonable, provided that the municipality or its authorised agent shall not grant exemption from any section of these bylaws that may result in: -

- (a) The wastage or excessive consumption of municipal services;
- (b) Significant negative effects on public health, safety or the environment;
- (c) The non-payment for services;
- (d) The Act, or any regulations made in terms thereof, is not complied with.

72.2. The municipality at any time after giving written notice of at least 30 days, withdraws any exemption given in terms of subsection (1).

73. AVAILABILITY OF BYLAWS

73.1. A copy of these bylaws shall be included in the Municipality Municipal Code as required in terms of legislation.

73.2. The municipality or its authorised agent shall take reasonable steps to inform customers of the contents of the credit control and debt collection bylaws.

73.3. A copy of these bylaws shall be available for inspection at the municipal offices or at the offices of its authorised agent at all reasonable time.

73.4. A copy of the bylaws be obtained against payment of a fee as prescribed in the Municipality's tariff of charges from the municipality or its authorised agent.

74. CONFLICT OF LAWS

75.1. When interpreting a provision of these bylaws, any reasonable interpretation which is consistent with the purpose of the Act as set out in Chapter 9 on Credit Control and Debt Collection, must be preferred over any alternative interpretation which is inconsistent with that purpose.

75.2. If there is any conflict between these bylaws and any other bylaws of the Municipality, these bylaws will prevail.

75. SHORT TITLE AND COMMENCEMENT

- 76.1. These bylaws are called the Credit Control and Debt Collection bylaws of the Kwadukuza Municipality and takes effect on 1 July 2016.
- 76.2. The municipality may, by a resolution, determine that provisions of these bylaws, listed in the resolution, shall not apply in certain areas within its area of jurisdiction from a date specified in the notice.
- 76.3. Until any decision contemplated subsection (2) is taken, these bylaws are binding within the area of jurisdiction of the Municipality.

77. REPEAL OF BYLAWS

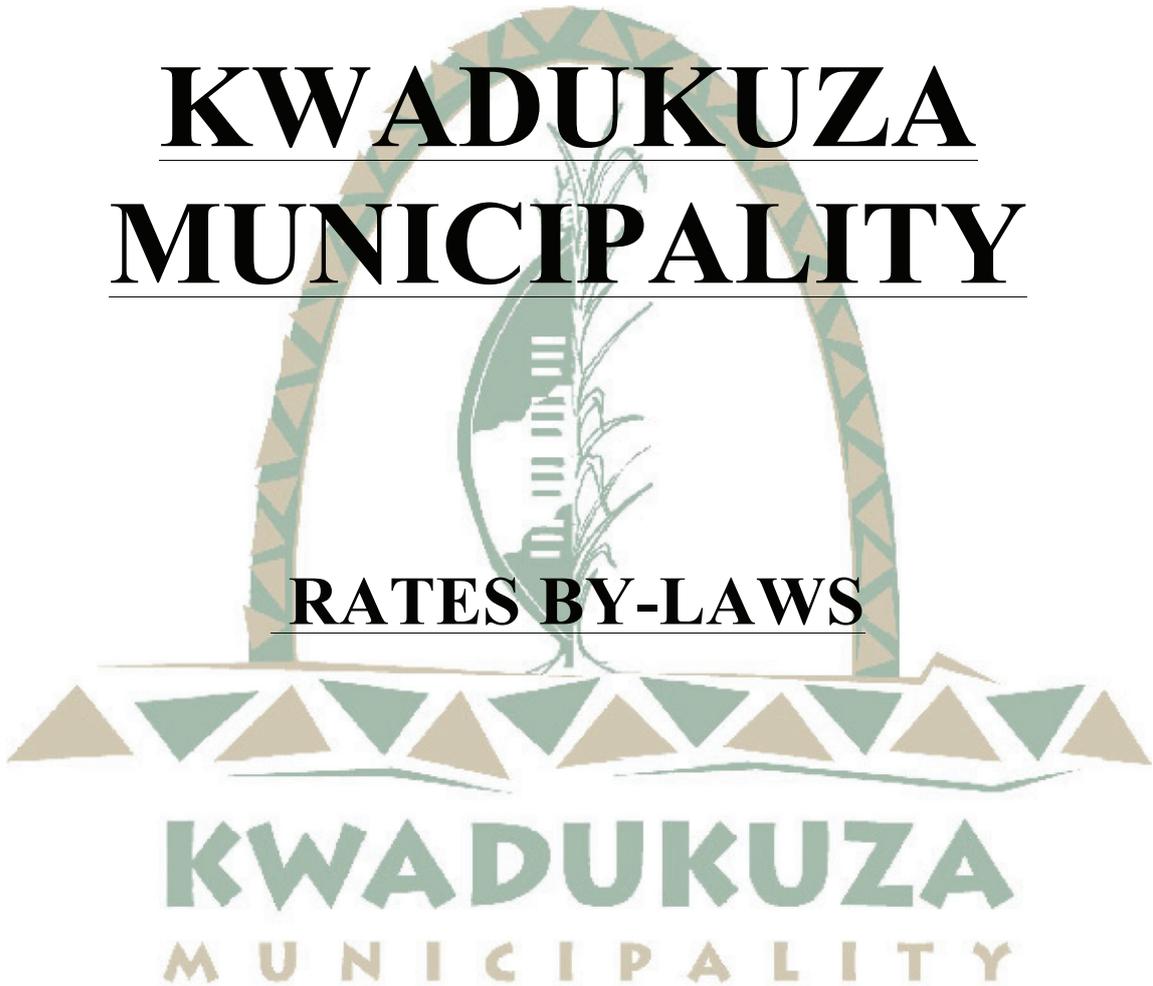
All previous Municipal Bylaws, and amendments thereto, relating to Credit control and Debt collection as promulgated by the KwaDukuza Municipality is hereby repealed.

23-30

PROVINCIAL NOTICE 118 OF 2016

KWADUKUZA MUNICIPALITY

RATES BY-LAWS



RATES BY-LAWS

The KwaDukuza Municipality, acting under the authority of section 156 (2) of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) read with section 11 (3)(m) and section 12 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and Section 6 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), hereby publishes the Rates Bylaws which bylaws shall come into effect on the 1st July 2016.

ARRANGEMENT OF SECTIONS

Section

- 1. Definitions**
- 2. Rating of property**
- 3. Principles**
- 4. Categories of property**
- 5. Establishment of Base Property, Category for the purpose of differentiation**
- 6. Criteria for differential rating for different categories of Properties**
- 7. Criteria for rating multiple use property**
- 8. Weighting**
- 9. Criteria for exemption, rebates and reductions**
- 10. Granting of exemptions, rebates and reductions**
- 11. Identification and quantification of costs and benefits**
- 12. Council owned properties**
- 13. Payment of rates**
- 14. Short Title**
- 15. Commencement**
- 16. Repeal**

Definitions

1. In these by-laws, unless the context indicates otherwise –

“Act”

means the Local Government: Municipal Property Rates Act (No. 6 of 2004) and the regulations as promulgated in terms of the said Act.

“Agent”

means in relation to the owner of a property, means a person appointed by the owner of the property.

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

“Agricultural property”

means property that is used primarily for agricultural purposes but, without derogating from Section 9 of the Act, excludes any portion thereof that is used commercially for the hospitality of guests, and excludes the use of the property for the purpose of eco-tourism or for the trading in or hunting of game.

“Amendment Act”

means the Local Government: Municipal Property Rates Amendment Act No. 29 of 2014

“Annually”

means once every financial year;

“Appeal Board”

means a valuation appeal board established in terms of Section 56 of the Act.

“Assistant Municipal Valuer”

Means a person designated as an assistant municipal valuer in terms of Section 35(1) or (2) of the Act.

“Bed and breakfast”

means an establishment, which is primarily a dwelling and makes excess rooms available to transient’s guests. The bathrooms may or may not be en suite. This establishment may be managed by the owner and or designated person. Breakfast may be available for all guests. Public areas are usually shared by guests and owners/hosts alike.

“Category”

- (a) In relation to property, a category of properties determined in terms of Section B.
- (b) In relation to owners of properties, means a category of owners determined in terms of Section 15(2) of the Act

“Data Collector”

Means a person designated as a data- collector in terms of section 36 of the Act.

“Date of valuation”

Means the date determined by a municipality in terms of Section 31(1) of the Act

“Day”

means when any number of days are prescribed for the performance of any act, those days must be reckoned by excluding the first and including the last day, unless the last day falls on a Saturday, Sunday or any public holiday, in which case the number of days must be reckoned by excluding the first day and also any such Saturday, Sunday or public holiday.

“Effective Date”

- a) In relation to a valuation roll, means the date on which the valuation roll takes effect in terms of Section 32(1) of the Act; or
- b) In relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of Section 78(2)(b) of the Act.

“Exclusion”

In relation to a municipality’s rating power, means a restriction of that power as provided for in Section 17 of the Act

“exemption”

In relation to the payment of a rate, means an exemption granted by a municipality in terms of Section 15 of the Act.

“Financial year”

Means the period starting from 1 July in a year to 30 June the next year.

“Income Tax Act”

The Income Tax Act, 1962 (Act No. 58 of 1962)

“Indigent” a household with a calculated income as determined by Council from time to time.

“Land reform beneficiary”

In relation to a property, means a person who:-

- a) acquired the property through-
 - i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or
 - ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);
- b) holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or
- c) holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to Section 25(6) and (7) of the Constitution of the Republic 1996 (Act 108 of 1996) be enacted after this Act has taken effect.

“land tenure right”

means a land tenure right as defined in section 1 of Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991)

“Local community”

In relation to a municipality-

- a) means that body of persons comprising-
 - i) the residents of the municipality;
 - ii) the ratepayers of the municipality;
 - iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
 - iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality; and
- b) includes, more specifically, the poor and other disadvantaged sections of such body of persons.

“Market Value”

In relation to a property, means the value of the property determined in accordance with Section 46.

“MEC for local government”

The member of the Executive Council of a province who is responsible for local government in that province

“Minister”

The cabinet member responsible for local government

“multiple purposes”,

in relation to a property, means the use of a property for more than one purpose subject to Section 9 of the Act

“municipal council” or **“council”** means the council of the KwaDukuza Municipality as constituted in terms of section 18 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“Municipality”- means the KwaDukuza Municipality-

- (a) established in terms of section 155(6) of the Constitution, 1996, and established by and under section 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000) and
- b) as a geographical area, means a municipal area demarcated in terms of the Local Government: Municipal Demarcation Act, 1988 (Act No. 27 of 1988);

“Municipal Manager”

A person appointed in terms of Section 82 of the Municipal Structures Act;

“Municipal Structures Act”

The Local Government : Municipal Structures Act, 1988 (Act No. 117 of 1998).

“Municipal Systems Act”

The Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000).

“Municipal Valuer or Valuer of a Municipality”

A person designated as a municipal valuer in terms of Section 33(1) of the Act;

“Newly rateable property” means

Any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding

- a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and
- b) a property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified.

“Occupier” means

In relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property;

“Office Bearer” means

in relation to places of public worship, means the primary person who officiates at services at that place of worship.

“Official Residence” means in relations to places of public worships means

- (a) a portion of the property used for residential purposes; or
- (b) one residential property, if the residential property is not located on the same property as the place of public worship, registered in the name of the religious community or registered in the name of a trust established for the sole benefit of a religious community and used as a place of residence for the office bearer.

“Organ of State”

An organ of state as defined in Section 239 of the Constitution.

“owner” –

- (a) in relation to property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
- (bA) in relation to a time sharing interest contemplated in the Property Time – Sharing control Act (Act No 75 of 1983), means the management association contemplated in terms of Section 12 of the Property Time sharing Control Act, 1983, and published in the Government Notice R327 of 24 February 1984.
- (bB) in relation to a share in a share block company, as defined in the Share Blocks Control Act, 1980 (Act No 59 of 1980)
- (bC) in relation to buildings, other immovable structures and infrastructures referred to in section 17(i)(f), means the holder of the mining right or the mining permit; and
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation,
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property” means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”
provided that a person mentioned below may for the purposes of this Act be regarded by the municipality as the owner of the property in the following cases –
 - (i) a trustee, in the case of a property in a trust excluding state trust land;
 - (ii) an executor or administrator, in the case of property in a deceased estate;
 - (iii) a trustee or liquidator, in the case of property in an insolvent estate or in liquidation;
 - (iv) a judicial manager, in the case of property in the estate of a person under judicial management;
 - (v) a curator, in the case of property in the estate of a person under curatorship;

- (vi) a usufructuary or other person in whose name a usufruct or other personal servitude is registered, in the case of property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of the municipality and is leased by it; or
- (viiA) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right or
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

“parent property”

A parent property is described as such in a service level agreement, and that has been approved by township development in terms of the Development Facilitation Act, 67 of 1995, the Natal Ordinance No. 27 of 1949, or the KwaZulu – Natal Planning and Development Act, 6 of 2008 and the Spatial Planning and Land Use Management Act 16 of 2013.

“permitted use”,

in relation to property, means the limited purposes for which the property may be used in terms of –

- (a) any restrictions imposed by –
 - (i) a condition of title;
 - (ii) a provision of a town planning or land use scheme; or
 - (iii) any legislation applicable to any specific property or properties; or
- (b) any alleviation of any such restrictions;

“Pensioner”

means a South African citizen who receives regular payment from the state or former employer after retirement, or the surviving spouse who receives a regular payment from the former employer of the late spouse, or a natural person, who is a South African citizen, over the age of 60 years who is not in employment.

“Person” - Includes an organ of state

“Primary property” means the property on which the owner resides.

“Primary developer”:

a primary developer of a parent property is the legal entity, or successor in title in the event of a sale of a property's development rights, that entered into a service level agreement with the KwaDukuza Municipality. The description of the parent property must be stated in the service level agreement.

“property” means –

- (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) a public service infrastructure;

“property development”

means a major development primarily for residential properties, but also including such other categories as may be authorised, arising from a DFA or land PTB approval or directly in terms of the Municipality’s Town Planning Scheme, and in which all the internal infrastructure and community facilities are provided by the Primary Developer.

“property register”

means a register of properties referred to in section 23 of the Act;

“protected area”

means an area that is or has to be listed in the register referred to in section 10 of the Protected Areas Act.

“Protected Areas Act”

The National Environmental: Protected Areas Act, 2003 (Act No. 57 of 2003);

“public benefits organization”

means an organization conducting specified public benefit activities as defined in the Act and registered in terms of the Income Tax Act, 1962 (Act No. 58 of 1962) for a tax reduction because of those activities;

“publicly controlled”

means owned or otherwise under the control of an organ of state, including –

- (a) a public entity listed in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) a municipality; or
- (c) a municipal entity as defined in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“public service infrastructure”

means “Public Service Infrastructure” Publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer

- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges or lines forming part of a communication system serving the public;
- (g) runways, aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding these, which must be vacant for air navigation purposes;
- (h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used assist the safe and efficient navigation of vessels; of 1999);
- (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i)

“Places of Public Worship” means property used primarily for the purposes of congregation, excluding a structure that is primarily used for educational instruction in which secular or religious education is the primary medium, Provided that the property is:

- a) registered in the name of the religious community;
- b) registered in the name of a trust established for the sole benefit of a religious community or;
- c) subject to a land tenure right

“rate” means a municipal rate on property envisaged in section 229(1)(a) of the Constitution, 1996;

“Ratio” in relation to section 19 of the Act, means the relationship between the cent amount in the rand applicable to residential properties and different categories of non-residential properties “provided that the two relevant cent amounts in the rand are inclusive of any relief measures that amounts to rebates of a general applicable to all properties within a property category, and

“Rateable property “

Property on which a municipality may in terms of Section 2 of the Act levy a rate, excluding property fully excluded from the levying of rates in terms of Section 17 of the Act.

“Rates Policy”- : The municipal council must by resolution, adopt a policy on the levying of rates on rateable property in the municipality which must comply with the Section 3 of the Act.

“Rebate”

In relation to a rate payable on a property, means a discount granted in terms of Section 15 of the Act on the amount of the rate payable on the property.

“Register”

- a) means to record in a register in terms of –
1. the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
 2. the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and
 3. Includes any other formal act in terms of any other legislation to record-
 4. a right to use land for or in connection with mining purposes; or
 5. a land tenure right;

“reduction”,

in relation to a rate payable on property, means the lowering in terms of Section 15 of the amount for which the property was valued and the rating of the property at that lower amount,

“residential property”

means property included in a valuation roll in terms of section 48(2)(b) in respect of which primarily use or permitted use is for residential purposes without derogating from section 9 of the Act.

“Section Titles Act”

The Sectional Titles Act, 1986 (Act No. 95 of 1986)

“Sectional Title Scheme

A scheme defined in Section 1 of the Sectional Titles Act;

“Sectional Title Unit”

A unit defined in Section 1 of the Sectional Titles Act

“Specified public benefit activity”

means an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962);

“SPLUMA”

means Spatial Planning and Land Use Management No. 16 of 2013.

“State Trust Land” means land owned by the state-

- (a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- d) over which land tenure rights were registered or granted; or
- e) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994)

“the Restitution of Land Rights Act” means the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994).

“Vacant property” means –

- a) property on which no immovable improvements have been erected; or
- b) in the case of property on which immovable improvements are being constructed, where such property cannot be permanently occupied

2. RATING OF PROPERTY

2.1 In terms of Section (2)(3) of the Act, the power of the municipality to levy rates on property is subject to -

- (a) Section 229 and other applicable provisions of the constitution
- (b) The provisions of the Act
- (c) The municipality's rates policy: The municipal council must by resolution, adopt a policy on the levying of rates on rateable property in the municipality which must comply with the Act.
- d) these bylaws.

3. PRINCIPLES

The municipality shall utilise the following key principles in the formulation of the rates policy which shall be amended by Council from time to time:

- 3.1 To ensure that rates allocated to properties are basically fair.
- 3.2 To ensure that rates and tariffs levied are basically fair
- 3.3. To ensure that the very poor are assisted.
- 3.4. To encourage a better quality of life for residents.
- 3.5 To promote growth and investment in the municipality of KwaDukuza.
- 3.6. To ensure the long-term viability of KwaDukuza Municipality.
- 3.7. To develop a rating system that is cost efficient to administer.
- 3.8. To ensure that the Council will treat ratepayers with similar properties in the same manner.
- 3.9 . To ensure that the rating system shall be based on the ability to pay principle.
- 3.10 To ensure that the ability of a person to pay rates will be taken into account by the Municipality.
- 3.11 To ensure that the Municipality in dealing with the poor or indigent ratepayers , provides effective relief measures.

4. DIFFERENT CATEGORIES OF PROPERTY

4.1 Section 8 of the Act provides for different categories of property that may be adopted by Municipalities for the purpose of levying different rates and/or exemptions and rebates. Subject to Section 19 of the Act, the categories of property are determined according to the actual use of the property, permitted use of the property or a combination of both. A change in the use may result in a change in the category of the property. The Kwa Dukuza Municipality has adopted the following categories:

- i) Residential properties.
- ii) Industrial,
- iii) Business and commercial properties
- iv) Agricultural properties:
- v) Properties owned by an organ of state and used for public service purposes
- vi) Public service infrastructure properties
- vii) Properties owned by public benefit organisations and used for specified public benefit activities
- viii) Vacant land.
- ix) Properties used for Multiple use purposes which is subject to Section 9 of the Act.
- x) Properties used for multiple use properties subject to section 9 of the Act

5. ESTABLISHMENT OF BASE PROPERTY CATEGORY FOR THE PURPOSE OF DIFFERENTIATION

5.1 The Council shall utilize the Residential Category as the base category against which the rate randage will be measured.

6. CRITERIA FOR DIFFERENTIAL RATING FOR DIFFERENT CATEGORIES OF PROPERTIES

- 6.1. The Council shall utilize the following criteria for weighting the key principle in section 3 above for the purpose of determining the rate randages for each category.
- 6.1.1 The general economic and financial strength or weakness of owners of a category compared to other categories.
 - 6.1.2 The reliance on services supplied by the Municipality.
 - 6.1.3. The weighting adopted by other Municipalities of similar structure, size and value as the KwaDukuza Municipality

- 6.1.4. The strategic importance of a category with reference to the aims and objectives of the Council and Government.
- 6.1.5. The nature of the property including its sensitivity to rating for example agricultural properties used for agricultural purposes
- 6.1.6. Vacant land will be rated higher (in terms of a Cent in the Rand) as the Municipality is encouraging owners to develop it and also to discourage speculation by owners.
- 6.1.7. Differential rating among the various property categories will be done by way of setting different Cent in the Rand for each property category rather than by way of reductions and rebates. This is much simpler for citizens to understand and thus promotes the principle of transparency.

7. CRITERIA FOR RATING MULTIPLE USE PROPERTY

- 7.1. The Council shall use the following criteria for the rating of multiple use properties in terms of section 8(2)(r)(i) of the Act as set out below:
 - 7.1.1. The Council shall apportion the market value of a property to the different purposes for which the property is used for.
 - 7.1.2. The Council shall apply the relevant cent amount in the Rand to the corresponding apportioned market value.
 - 7.1.3. The Council shall value property according to the dominant (main or primary) use if the market value of a property cannot be apportioned to its various uses.

8. WEIGHTING

- 8.1. The Council shall determine the difference in rate randage between the various categories of properties on an annual basis.

9. CRITERIA FOR EXEMPTION, REBATES AND REDUCTIONS

- 9.1. The Council shall utilise the following criteria for the purpose of rates exemption, rebates and reductions as set out below:
 - 9.1.1. The indigent status of the owner of a property.
 - 9.1.2. The Council shall determine whether the person/s are poor and/or unemployed and the sources of income of the owner of a property will be taken into account.
 - 9.1.3. The pensioner's and applicant's ability to pay.
 - 9.1.4. The social or economic conditions of the area where the owners of property is located for example an area declared by the National or Provincial Government to be a disaster area within the meaning of Disaster Management Act, 2002 to the extent that the significantly negatively affected.

- 9.1.5 The market value of residential property below a determined threshold.
- 9.1.6 Incentives to promote development.

10. GRANTING OF EXEMPTIONS, REBATES AND REDUCTIONS

- 10.1 The council shall utilise the process as set out in the rates policy for the granting of exemptions, rebates and reductions which shall be amended by council from time to time:
 - 10.1.1 An application by affected persons shall be accompanied by the relevant documents(SARS status, pension or social grant proofs) including affidavit has been lodged with the Council .

10.1 Properties qualifying for Exemption

10.1.1 Protected areas and environmentally sensitive areas

- 10.1.1.1 The Municipality shall comply with sections 17(1) (e) and Sections 17(2)(a) of the Act and as defined in the rates policy of Council.
- 10.1.1.2 The Council shall further exempt from rates any environmentally sensitive area that is recognised as such by the Council.
- 10.1.1.3 The Council shall when an area as indicated in 10.1.1.2 above is located on part of a property that has other land use types, apportion the rates to the other land use types if applicable.
- 10.1.1.4 The Council shall consider applications in this regard for recognition and approval of the environmentally sensitive areas as determined in the rates policy.

10.1.2 Land reform beneficiaries

- 10.1.2.1 The Council shall comply with Section 17(1)(g) and section and Section 21(1)(b) and section 21(5) of the Act in respect of land belonging to land reform beneficiaries .

10.1.2 Properties used for residential purposes

- 10.1.3.1. The Council shall comply with Section 17(1)(h) and Section 9 of the Act of the Act in respect of residential properties or properties used for multiple use purposes provided one or more components of the property are used for residential purposes.
- 10.1.3.2 The implementation by council is as determined in the rates policy of Council which may be amended by council from time to time.

10.1.4 Places of Worship

10.1.4.1 The Council shall comply with Section 17(1)(i) of the Act in respect of a property registered in the name of and used primarily as a place of worship by a religious community or zoned as a place of public worship including the official residence registered in the name of that community which is occupied by the office-bearer of that community who officiates at services at that place of worship.

10.2 Properties qualifying for rebates

The following properties will qualify for rebates as indicated-

10.2.1 Newly rateable properties.

10.2.1.1 Any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding

- (a) property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and
- (b) a property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified.

10.2.1.2 The Council shall phase in over a period of 3 years the rating of all newly incorporated properties according to the following percentages:

- 75% discount for the first year
- 50% discount for the second year
- 25% discount for the third year

10.2.2 Public Service Infrastructure

10.2.2.1 The Council may grant a rebate to public service infrastructure as determined in the rates policy of council which may be amended from time to time.

10.2.2.2 This exemption applies to properties and services infrastructure.

10.2.3 Properties owned by an organ of state and used for public service purposes

The following public service properties will be entitled to a separate rate tariff determined by Council from time to time:

- i) Hospitals and clinics
- ii) Schools, pre-schools, early childhood development centres or further education and training colleges
- iii) National and provincial libraries and archives

- iv) Police stations.
- v) Correctional facilities
- vi) Courts of law

but excludes property contemplated in the definition of “public service infrastructure

10.2.4 Agricultural properties

10.2.4.1. The Council shall comply with Section 3(k) of the Amendment Act in respect of properties used for agricultural purposes and shall give effect to the regulations as promulgated in terms of Section 19 (1)(b) of the Act.

10.2.4.2. A rebate shall be determined by Council, which may be amended from time to time.

10.2.5 Residential properties that are part of a township

That rates on a property will become payable from the date on which the subdivision or consolidation of the property was registered in the Deeds Office. That a parent property may be rated from the date its first subdivision is registered in the Deeds Office if the parent property is not already registered in the Deeds Office.

10.2.6 Residential properties that are part of a gated community

10.2.6.1 The Council shall grant a rebate to gated communities where property owners are all members of an association and that association is, by agreement of its members and the Council, responsible for the maintenance and replacement of all or part its services to the community.

10.2.6.2 The Council shall determine the rebate according to the percentage of services provided by the Council in accordance with the standards and costs of services supplied by council in the particular financial year.

10.2.6.2 The Council shall determine the rebate in terms of Councils rates policy which shall be amended from time to time.

10.2.7 Commercial and Industrial Properties

10.2.7.1 The criteria and rebate for commercial and industrial properties will be determined by Councils rates policy as amended from time to time.

10.2.8 Developers Incentives (Residential)

10.2.8.1 The criteria and rebate for developers incentives for residential properties will be determined by Councils rates policy as amended from time to time.

10.3 OWNERS QUALIFYING FOR EXEMPTIONS

10.3.1 Indigent Persons

10.3.1.1 The Council shall exempt any indigent person who owns residential improved property below a valuation determined by council.

10.3.1.2 The criteria to determine indigent households and other criteria is determined in Councils indigent policy which policy be amended by Council from time to time.

10.3.2 Public Benefit Organisations

10.3.2 .1. The Council shall grant a rebate to any organisation that is registered as a Public Benefit Organisation, in terms of the Income Tax Act on condition that the property is used for an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act.

10.3.2.2. The criteria and rebate will be determined by Councils rates policy as amended from time to time.

10.4 OWNERS QUALIFYING FOR REBATES

10.4.1 Recipients of pensions and disability grants , medically boarded persons and child- headed households

10.4.1.1. The Council shall apply the criteria and rebates for recipients of pensions and disability grants, medically boarded persons and child-headed households as set out in Council's rates policy which criteria and rebates may be amended from time to time.

10.4.2 Hospitality Accommodation

10.4.2.1 That Bed and Breakfast establishments and guesthouses shall receive a rebate or concessionary rate tariff as determined by Council from time to time subject to the qualifying criteria being met as set out in the rates policy of Council.

10.5 SPECIAL RATING AREAS

The municipality may by resolution of Council determine an area within the municipality as a special rating area and all parties must comply with the processes as set out in the Section 22 of the Act, as well as the policy governing special rating areas.

11. IDENTIFICATION AND QUANTIFICATION OF COSTS AND BENEFITS

11.1 The Council shall comply with Section 3(3)(e) of the Act in identifying and quantifying in terms of cost to the municipality and any benefit to the local community as set out below-

11.1.1. exemption, rebates and reductions

11.1.2. Exclusions referred to in sections, 17(1) (a) (e) (g) (h) (i) of the Act

11.1.3 Rates on properties that must be phased in terms of Section 21 f the Act.

11.2 The Council shall determine the criteria as stated above by resolution of the said council during the budgetary process.

12. COUNCIL OWNED PROPERTIES

12.1. The Council shall value all Council owned properties.

12.2 The Council shall subject all lessees and purchasers to pay rates in terms of their respective agreements of lease or sale based on the zoning and usage of the property.

13. PAYMENT OF RATES

13.1. The payment and recovery of rates shall be governed by the Municipality's Credit Control and Debt Collection Bylaw.

14. SHORT TITLE

The by-laws shall be called Rates Bylaws of the KwaDukuza Municipality.

15. COMMENCEMENT

The Rates Bylaws of Kwa Dukuza Municipality come into force and effect on 1st July 2016.

16. REPEAL

All previous Municipal Bylaws, and amendments thereto, relating to Rates are hereby repealed.

MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS

MUNICIPAL NOTICE 80 OF 2016**MUNICIPAL TARIFF BY-LAW 2016/2017**

Okhahlamba Municipality, hereby, in terms of section 6 of the Local Government: Municipal Property Rates Act, 2004, has by way of Ordinary Council meeting on 16 May 2016 adopted the Municipality's Tariff By-law set out hereunder.

Council Resolution Number: C2016/05/140

Bylaw

To give effect to the implementation of the Okhahlamba Municipality's Tariff Policy and to provide for matters incidental thereto for .

Preamble

WHEREAS section 75(1) of the Local Government: Municipal Systems Act, 2000(No.32 of 2000) as amended, requires a municipality to adopt Bylaws to give effect to the implementation of its Tariff Policy;

AND WHEREAS SECTION 75(2) of the Local Government: Municipal Systems Act (No. 32 of 2000) as amended, provides that Bylaws adopted in terms of section 75(1) may differentiate between different categories of properties; and different categories of owners of properties liable for the payment of rates.

BE IT THEREFORE ENACTED by the Council of the Okhahlamba Municipality, as follows:

1. Definitions

In this Bylaw any word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) shall bear the same meaning and unless the context indicates otherwise-

“**Act**” means the Local Government: Municipal Systems Act, 2000(Act 32 of 2000);

“**Council**” means the Council of the Okhahlamba Municipality; and

“**tariff**” means a municipal tariff on rates and services envisaged in section 229 of the Constitution of the Republic of South Africa.

2. Adoption and implementation of a Tariff Policy

- (1) The Council shall adopt and implement a Tariff Policy consistent with the Act on the levying of rates and services as provided within the jurisdiction of the municipality; and
- (2) The Council shall not be entitled to levy any fees on other services than in terms of its tariff policy and also where applicable referred to in its Consumer Care and Credit Control Policy

3. Contents of the Tariff Policy

The Council’s Tariff Policy shall, *inter alia*:

- (1) Apply to all tariffs levied by the Council pursuant to the adoptions of its Annual Budget;
- (2) Comply with the requirements for:
 - the adoption and contents of Tariffs Policy specified in section 74 of the Act;
 - the process of community participation as specified in section 75(A) of the Act; and
 - the annual review of a Tariffs Policy specified in the Act.
- (3) Specify any further principles, criteria and implementation measures consistent with the Act for the levying of services which the Council may adopt; and
- (4) Include such further enforcement mechanisms, if any, as the Council may wish to impose.

4. Enforcement of Tariff Policy

The Council’s Tariffs Policy shall be enforced through the Credit Control and Debt Collection Bylaw and Policy and any further enforcement mechanisms stipulated in the Act and the Council’s Rates Policy.

5. Short title and commencement

This Bylaw is the Tariff Bylaw, and takes effect on 1 July 2016

RATES BY-LAW 2016/2017

Okhahlamba Municipality, hereby, in terms of section 6 of the Local Government: Municipal Property Rates Act, 2004, has by way of Ordinary Council Meeting held on this 16th day of May 2016 adopted the Municipality's Property Rates By-law set out hereunder.

PREAMBLE

WHEREAS section 229(1) of the Constitution requires a municipality to impose rates on property and surcharges on fees for the services provided by or on behalf of the municipality.

AND WHEREAS section 13 of the Municipal Systems Act read with section 162 of the Constitution require a municipality to promulgate municipal by-laws by publishing them in the gazette of the relevant province.

AND WHEREAS section 6 of the Local Government: Municipal Property Rates Act, 2004 requires a municipality to adopt by-laws to give effect to the implementation of its rates policy; the by-laws may differentiate between the different categories of properties and different categories of owners of properties liable for the payment of rates;

NOW THEREFORE BE IT ENACTED by the Council of Okhahlamba Local Municipality, as follows

1. DEFINITIONS

In this by-law, any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004(Act No. 6 of 2004), shall bear the same meaning unless the context indicates otherwise.

'Municipality' means Okhahlamba municipality

'Property Rates Act' means the Local Government: Municipal Property Rates Act, 2004(Act No 6 of 2004);

'Rates Policy' means the policy on the levying of rates on rateable properties of Okhahlamba Municipality, contemplated in chapter 2 of the Municipal Property Rates Act

2. OBJECTS

The object of this by-law is so to give effect to the implementation of the Rates Policy as contemplated in section 6 of the Municipal Property Rates Act.

3. ADOPTION AND IMPLEMENTATION OF RATES POLICY

3.1. The Municipality shall adopt and implement its Rates Policy consistent with the Municipal Property Rates Act on levying of rates on ratable property within the jurisdiction of the municipality; and

3.2. The Municipality shall not be entitled to levy rates other than in terms of its Rates Policy.

4. CONTENTS OF RATES POLICY

The Rates Policy shall, *inter alia*:

4.1 Apply to all rates levied by the Municipality pursuant to the adoption of its Annual Budget;

4.2. Comply with the requirements for;

4.2.1 the adoption and contents of a rates policy specified in section 3 of the Act;

4.2.2 the process of community participation specified in Section 4 of the Act; and

4.2.3 the annual review of a Rates Policy in section 5 of the Act

4.3 Provide for principles, criteria and implementation measures that are consistent with the Municipal Property Rates Act for the levying of rates which the Council may adopt; and

4.4 Provide for enforcement mechanisms that are consistent with the Municipal Property Rates Act and the Local Government Municipal Systems Act, 200(Act No. 32 of 2000).

5. ENFORCEMENT OF THE RATES POLICY

The Municipality's Rates Policy shall be enforced through the Credit Control and Debt Collection Policy and any further enforcement mechanisms stipulate in the Act and the Municipality's Rates Policy.

6. SHORT TITLE AND COMMENCEMENT

This By-law is called the Municipal Property Rates By-Law adopted by Council of Okhahlamba Municipality on 16 May 2016, and takes effect on 1 July 2016

Council Resolution: C2016/05/140

OKHAHLAMBA MUNICIPALITY**COUNCIL RESOLUTION ON TARIFFS FOR PROPERTY RATES 2016/2017**

RESOLUTION LEVYING PROPERTY RATES FOR THE FINANCIAL YEAR 1 JULY 2016 TO 30 JUNE 2017

Notice is hereby given in terms of section 14(1) and (2) of the Local Government: Municipal Property Rates Act, 2004; that the Council resolved by way of council resolution on 16 MAY 2016, to levy rates on property reflected in the schedule below with effect from 1 July 2016.

DESCRIPTION	TARIFF 2015/2016	TARIFF 2016/2017	IMPERMISSABLE REBATE	ADDITIONAL REBATE
RESIDENTIAL, SECTIONAL TITLE RESIDENTIAL,	.0074	.00784	R117.00 P/A	20% SECTIONAL TITLE RESIDENTIAL ADDITIONAL R85,000 ON MARKET VALUE
RURAL RESIDENTIAL, RESIDENTIAL SMALL HOLDING	.0074	.00784	R117.00 P/A	20% ADDITIONAL R85,000 ON MARKET VALUE
BUSINESS & COMMERCIAL, RURAL BUSINESS AND COMMERCIAL	.0074	.00784	0	20% ON APPLICATION LED DEVELOPMENT
INDUSTRIAL	.0074	.00784	0	20% ON APPLICATION LED DEVELOPMENT
PUBLIC SERVICE INFRASTRUCTURE	.00186	.00196	30%	100% EXEMPT
AGRICULTURAL AND AGRICULTURAL SMALL HOLDING	.00186	.00196	0	20% 50% REBATE : DISASTER RELIEF:

				ON APPLICATION
MUNICIPAL PROPERTIES NON LEASED MUNICIPAL PROPERTIES	.0074	.00784	0	100%
MUNICIPAL PROPERTIES BINDED BY LEASE AGREEMENT	.0074	.00784	0	20%
PRIVATELY DEVELOPED ESTATES	.0074	.00784	0	20%
PROPERTIES FOR RELIGIOUS USE	.0074	.00784	0	100%
VACANT LAND	.0074	.00784	0	
RURAL COMMUAL LAND	.0074	.00784	0	100%
EDUCATION FACILITIES	.0074	.00784	0	
STATE OWNED PROPERTIES	.0074	.00784	0	
TOURISM AND HOSPITALITY RURAL	.0074	.00784	0	20%
TOURISM AND HOSPITALITY URBAN	.0074	.00784	0	20%

Full details of the Council resolution and rebates, reductions and exclusions specific to each category of owners of properties or owners of a specific category of properties as determined through criteria in the municipality's rates policy are available for inspection on the municipality's offices, website: www.ohahlamba.org.za and all public libraries.

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MUNICIPAL NOTICE 81 OF 2016



UMDONI MUNICIPALITY

THE J.E.W.E.L OF THE SOUTH COAST

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NOTICE NUMBER: MN 128/2016

AMENDMENTS

CREDIT CONTROL AND DEBT COLLECTION POLICY

2016/2017

DUTIES AND FUNCTIONS OF COMMUNITIES, RATEPAYERS AND RESIDENTS

- In terms of Section 118 (3) of the Act an amount due for municipal service fees, surcharge on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property
- Accordingly, all such Municipal debts shall be payable by the owner of such property without prejudice to any claim which the Municipality may have against any other person.

AGREEMENT AND ARRANGEMENTS FOR PAYMENT OF OVERDUE ACCOUNTS

- Debtors may enter into an arrangement to pay arrear debt by signing into and Acknowledgment of Debt arrangement or Section 57 Acknowledgment of Debt were legal proceedings have been implemented
- If the owner is permanently employed, a voluntary emoluments order may be required against his salary.
- The Accounting officer may request an emoluments attachment order against a debtor who is employed.
- The Accounting officer shall in terms of section 118 of the Municipal Systems Act, 2000, (Act 32 of 2000) hold back rates clearance certificates if any money and rates in respect of the property are overdue.

TAX CLEARANCE CERTIFICATES

- A tax clearance certificate shall be issued only if all outstanding money in respect of the property concerned is paid in full.
- The new title holder will accept all financial implications of any disputes or objections or any interim valuation not yet applied to the account.

PUBLICATION OF THE POLICY

- The Municipality shall publish this Policy on Council's website for general notification purposes.

COMMENCEMENT

- This Policy shall take effect on 1 July 2016 and shall be known as the Municipality Credit Control and Debt Collection Policy 2016-2017

SHORT TITLE

- This Policy is called the Umdoni Municipality Credit Control and Debt Collection Policy 2016

Full policy available on www.umdoni.gov.za

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