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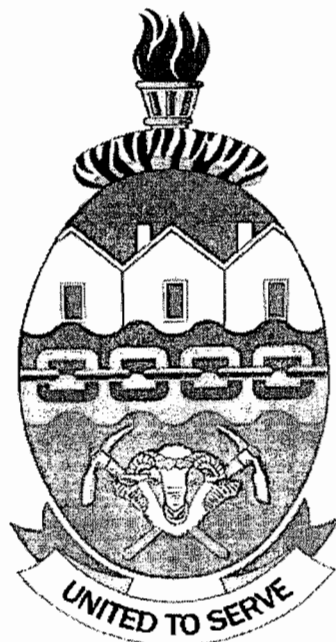
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LOCAL AUTHORITY NOTICES

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No. 142



**INXUBA YETHEMBA  
MUNICIPALITY**

**DEBT COLLECTION POLICY**

**INXUBA YETHEMBA MUNICIPALITY****CHAPTER 1: DEFINITIONS**

In these regulations, unless the context otherwise indicates:

<b>“Account”</b>	means any account rendered for municipal services provided
<b>“Actual consumption”</b>	means the measured consumption of any customer
<b>“Agreement”</b>	means the contractual relationship between the municipality or its authorized agent and a customer, whether written or deemed
<b>“Applicable charges”</b>	means the rate, charge, tariff, flat rate or subsidy determined by the municipal council
<b>“Approved”</b>	means approved by the municipality or its an authorized agent in writing
<b>“Area of supply”</b>	means any area within or partly within the area of jurisdiction of the municipality to which municipal services are provided
<b>“Authorized agent”</b>	means- (a) any person authorized by the municipality to perform any act, function or duty in terms of or exercise any power under these by-laws and / or (b) any person to whom the municipality has delegated the performance of certain rights, duties and obligations in respect of providing revenue management services; and/or (c) any person appointed by the municipality in terms of a written contract as a service provider to provide revenue management services on its behalf, to the extent authorized in such contract
<b>“Average consumption”</b>	means the estimated average consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service by that customer- (a) during the preceding three months by three or (b) during the corresponding period in the previous year by three or (c) during the following three months by three
<b>“Connection”</b>	means the point at which a customer gains access to municipal services
<b>“Customer”</b>	means a person with whom the municipality or its authorized agent has concluded an agreement for the provision of municipal service's
<b>“Household”</b>	means a traditional family unit consisting of a maximum of eight persons
<b>“Measuring device”</b>	means any method, procedures, process or device, apparatus, installation that enables the quantity of water services provided to be quantified

- “Municipality”** means-
- (a) the Inxuba Yethemba Municipality or its successors-in-title or
  - (b) the Municipal Manager in respect of the performance of any action or exercise of any right, duty, obligation or function in terms of these by-laws
  - (c) an authorized agent of Inxuba Yethemba Municipality
- “Municipal Manager”** means the person appointed by the Municipal Council and includes any person that is acting in such position and to whom the Municipal Manager has delegated a power, function or duty in respect of such a delegated power, function or duty
- “Municipal Services”** means services provided by the Municipality or its authorized agent, and shall include refuse removal, water supply, sanitation, electricity services, rates and taxes
- “Occupier”** means any person in actual occupation of the land or premises without regard to the title under which he or she occupies, and in the case of premises subdivided and let to lodgers or various tenants, shall include the person receiving the rent payable by the 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 premises
  - (b) in case where the person in whom the legal title to premises 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
- “Working day”** means a day other than a Saturday, Sunday or public holiday

## INXUBA YETHEMBA MUNICIPALITY

**CHAPTER 2: PROVISION OF MUNICIPAL SERVICES TO CUSTOMERS OTHER THAN INDIGENT CUSTOMERS****SECTION 1: APPLICATION FOR MUNICIPAL SERVICES****1. APPLICATION FOR SERVICES**

- 1.1 A customer wanting to qualify as an indigent customer must apply for services as set out in chapter 4 of this document.
- 1.2 No person shall be entitled to access to municipal services unless application has been made and approved by the municipality or its authorized agent on the prescribed form attached as Annexure A to these by-laws.
- 1.3 If at the commencement of these by-laws or at any other time, municipal services are provided and received and no written agreement exists in respect of such services, it shall be deemed that-
  - (a) an agreement in terms of sub-section 1.7 exists; and
  - (b) the level of services provided to that customer are the level of the services as understood by the Municipality until such time as the customer enters into an agreement in terms of sub-section 1.2
- 1.4 The Municipality or its authorized agent must on application for the provision of municipal services inform the applicant of the then available levels of services and the then applicable tariffs and or charges associated with each level of service.
- 1.5 The Municipality or its authorized agent is only obliged to provide a specific level of service requested if the service is currently being provided and if the municipality or authorized agent has the resources and capacity to provide such level of service.
- 1.6 A customer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such requested level of service is available and that any costs and expenditure associated with altering the level of service is paid by the customer.
- 1.7 An application for services submitted by a customer and approved by the municipality or its authorized agent shall constitute an agreement between the Municipality or its authorized agent and the customer. Such agreement shall take effect on the date referred to or stipulated in such agreement.
- 1.8 In completing an application form for municipal services the municipality or its authorized 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.

- 1.9 In the case of illiterate persons the municipality or its authorized agent must take reasonable steps to ensure that the person is aware of and understands the contents of the application form and shall assist in the completion of such form.
- 1.10 Municipal services rendered to a customer are subject to the provisions of these by-laws, any applicable by-laws and the conditions contained in the agreement.
- 1.11 If the Municipality or its authorized agent-
- (a) refuses 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 a level of service on the date requested for such provision of commence;  
or
  - (c) is unable to render the municipal services or a specific service or level of service, the municipality or its authorized agent must within reasonable time inform the customer of the situation stating reasons and, if applicable, inform the customer when such municipal services or a specific service or level of service will be available.

## **2. SPECIAL AGREEMENTS FOR MUNICIPAL SERVICES**

The municipality or its authorized agent may enter into a special agreement for the provision of municipal services with an applicant –

- (a) within the area of supply, if the services applied for necessitates the imposition of conditions not contained in the prescribed form of these by-laws;
- (b) receiving subsidized services;
- (c) if the premises to receive such services is situated outside the area of supply, provided that the municipality having jurisdiction over the premises and that there is no objection to such special agreement.

## **3. 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 authorized agent within a period of not more than seven (7) days of such change and to enter into a new agreement with the municipality or its authorized agent.

## **4. PROPERTY DEVELOPMENTS**

- 4.1 A property developer must on the provision of infrastructure for the provisioning of municipal services inform the municipality or its authorized agent, in writing of the details of all municipal services that may be provided through the infrastructure and the details of all measuring devices that are installed.
- 4.2 A property developer that fails to comply with the provisions of sub-section 4.1 shall be liable for the payment of all estimated applicable charges that would have been payable by customers in respect of municipal services provided if the details thereof was known by the municipality or its authorized agent.

**SECTION 2: APPLICABLE CHARGES****5. MUNICIPAL SERVICES**

5.1 All applicable charges payable 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 municipal council in accordance with-

- (a) its rates and tariff policy
- (b) any by-laws in respect thereof, and
- (c) 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 services, quantities of services, infrastructure requirements and geographic areas.

**6. AVAILABILITY CHARGES**

The Municipality may in addition to the tariffs or charges prescribed for municipal services actually provided, levy a monthly/yearly fixed charge or a once-off fixed charge where municipal services are available, whether or not such services are used or not.

**7. SUBSIDIZED SERVICES**

7.1 The Municipality may from time to time and in accordance with national policy/guidelines implement subsidies for a basic level of municipal service by public notice but subject to principles of sustainability and affordability.

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 sub-section 7.1 must contain at least the following details applicable to specific subsidy-

- (a) the household customers that 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 (level of subsidies)
- (e) the method of implementing the subsidy; and
- (f) any special terms and conditions that 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 than the unused portion may not be accrued by the customer and will not entitle the customer to cash or rebate towards such 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 sub-section 7.1 may at any time, after reasonable notice, be withdrawn or altered in the sole discretion of the Municipality.



- 7.6 Commercial customers may not qualify for subsidized services.
- 7.7 Subsidies services shall be funded from the portion of revenue, raised nationally that is allocated to the municipality and if such funding is insufficient, then 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 authorized agent has the authority to recover any additional costs incurred in respect of implementing these by-laws against the account of the customer, including but not limited to-

- (a) all legal costs, including attorney and own client costs incurred in the recovery of amounts in arrears shall be against the arrears account of the customer and/or
- (b) the average costs 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.
- (c) the time cost of municipal employees relating to recovery of costs and fees will be calculated or estimated and charged to the customer.

## **SECTION 3: PAYMENTS**

### **9. PAYMENT OF DEPOSIT**

- 9.1 The Municipal Council may from time to time determine different deposits for different categories of customers, users of services, debtors services and service standards. The deposits must be equal to at least two times the monetary value of the monthly consumption for each service.
- 9.2 A customer must on application for the provision of municipal services and before the municipality or its authorized agent will provide such services, pay the prescribed deposit as calculated in sub section (9.1)
- 9.3 The municipality or its authorized agent may annually review a deposit paid in terms of sub section (9.2) and in accordance with such review-
- (a) require that an additional amount be deposited by the customer where the deposit is less than the most recent deposit determined by the municipal council; or
  - (b) refund to the customer such amount as may be held by the municipality or its authorized agent where the deposit is in excess of the most recent deposit determined by the municipal council.
- 9.4 If a customer is in arrears, the municipality or its authorized agent may require that the customer-
- Where the total valuation of the property exceeds R50 000,00 the payment history of the customer be evaluated, where after the CFO may, at his discretion, recommend that the customer pays an additional deposit where the deposit paid by the customer is less than the most recent deposit determined by Council.
- 9.5 The deposit shall not be regarded as being a payment or part payment of the arrears.
- 9.6 No shall be payable by the municipality or its authorized agent on any deposit held.

- 9.7 The deposit is refundable to the customer on settlement of all arrears and termination of the agreement. A deposit shall be forfeited to the municipality if it has not been claimed by the customer within 12 (twelve) months of termination of the agreement.

#### **10. METHOD FOR DETERMINING AMOUNTS DUE AND PAYABLE**

- 10.1 The municipality or its authorized agent must in respect of municipal services that can be metered, endeavor to within available financial and human resources meter all customer connections and/or read all metered customer connections on a regular basis, subject to sub-section (10.2).
- 10.2 If a service is not measured, the municipality or its authorized agent may notwithstanding sub-section (10.1), determine the amount due and payable by a customer for municipal services supplied to him/her or it by calculating the-
- (a) the shared consumption, or if not possible,
  - (b) the estimated consumption.
- 10.3 If a service is metered, but it cannot be read due to technical, financial or human resources constrains and the customer is charged for an average consumption, the account following the reading of the metered consumption with the resulting credit or debit adjustment.
- 10.4 Where water supply services is provided through a communal water services work (standpipe), the amount due and payable by customers gaining access to water supply services through that communal water services work, must be based on the shared or estimated consumption of water supplied to that water services work.
- 10.5 Where in the opinion of the municipality or it's authorized agent it is not reasonably possible or cost effective to meter all customer connections and/or read all metered customer connections within a determined area, the municipal council may determine a basic tariff (flat rate) to be paid by all the customers within that area, irrespective of actual consumption.
- 10.6 The municipality or its authorized agent must inform customers of the method for determining amounts due and payable for municipal services provided that will apply in respect of their consumption of supply zones.

#### **11. PAYMENT FOR MUNICIPAL SERVICES PROVIDED**

- 11.1 A customer shall be responsible for payment of all municipal services consumed or used 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 authorized agent must recover all applicable charges due to the municipality.
- 11.2 If a customer uses municipal services for a use other than for which it is provided by the municipality or its authorized agent in terms of an agreement and as a consequence is charged at a charge lower than the applicable charge, then the municipality or its authorized agent may make an adjustment of the amount charged and recover the balance from the customer.
- 11.3 In the event of a consumer specifying in writing how the payment is to be allocated, the said payment will be allocated as stipulated. Failure in specifying such allocation in writing, will result in payments being allocated first to the current and then to the oldest outstanding amount in the following order :-

- (a) Rates services/charges
- (b) Refuse services/charges
- (c) Electricity services/charges
- (d) Sundry service/charges
- (e) Water services/charges
- (f) Sewerage services/charges

## **12. FULL AND FINAL SETTLEMENT OF AN AMOUNT**

- 12.1 Where an account is not settled in full, any lesser amount tendered to and accepted shall not be deemed to be in final settlement of such an account.
- 12.2 Sub-section (12.1) shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement, unless the municipality made such acceptance in writing.

## **13. RESPONSIBILITY FOR AMOUNTS DUE AND PAYABLE**

Notwithstanding the provisions of any other section of these by-laws, the owner of the property/premises shall be liable for the payment of any amount due and payable to the municipality or its authorized agent where the owner is not the customer after taking reasonable measures to recover any amounts due and payable from the tenant.

## **14. DISHONERD PAYMENTS**

Where any payment made to the municipality or its authorized agent by a customer and is later dishonored by the bank, the municipality or its authorized agent-

- (a) recover the bank charges incurred relating to dishonored transaction against the account of the customer; and
- (b) shall regard such an event as default on payment.

## **15. INCENTIVE SCHEMES**

The municipal council may institute incentive schemes to encourage prompt payment and to reward customers that pay accounts on regular and timeous basis.

## **16. PAY-POINTS AND APPROVED AGENTS**

- 16.1 A customer must pay his/her or its account at pay-points specified by the municipality from time to time.
- 16.2 The municipality must inform customers of the location of specific pay-points and approved agents for payment of accounts.

## **SECTION 4: ACCOUNTS**

- 17.1 Accounts will be rendered monthly to customers at the address last recorded with the municipality or its authorized agent. The customer may receive more than one account for different municipal services if they are accounted for separately. Any deviation from above must be approved by council.
- 17.2 Failure to receive or accept an account does not relieve a customer of the obligation to pay an amount due and payable.

- 17.3 The municipality or its authorized agent must issue a duplicate account to a customer on request.
- 17.4 Accounts must be paid not later than the last date for payment specified in such a account which date will not be more than seven (7) days after the date of the invoice.
- 17.5 Accounts will reflect at least-
- \* the service rendered
  - \* the consumption of metered services or average, shared or estimated consumption
  - \* the period addresses in the account
  - \* the applicable charges
  - \* the amount due (excluding value added tax payable)
  - \* value added tax
  - \* adjustments, if any
  - \* arrears, if any
  - \* the interest payable on arrears, if any
  - \* the final date for payment and
- stated that –
- \* the customer may concluded an agreement with the municipality or its authorized agent for payment of the arrears amount in installments at the municipality or its authorized agent's offices before the final date for payment, if a customer is unable to pay the full amount due and payable;
  - \* if no such agreement is entered into, the municipality or its authorized agent will enforce the debt and credit control policy.

## **SECTION 5: QUERIES, COMPLAINTS AND APPEALS**

### **18. ACCOUNT QUERIES OR COMPLAINTS**

- 18.1 A customer may lodge a query or complaint in respect of the accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
- 18.2 A query or complaint must be lodged with the municipality or its authorized agent in writing through the administrative channels.
- 18.3 In the case of illiterate or similarly disadvantaged customers, the municipality or its authorized agent must assist such a customer in lodging his or her query or complaint in writing and must take reasonable steps to ensure that the query or complaint is reflected correctly.
- 18.4 A query or complaint must be accompanied by the payment of at least the total amount, excluding the amount in respect of which a query or complaint is lodged due and payable in respect of the account.
- 18.5 The municipality or its authorized agent will register the query or complaint and provide the customer with a reference number.
- 18.6 The municipality or authorized agent-
- (a) shall investigate or cause the query or complaint to be investigated within 20 (twenty) working days after the query or complaint was registered; and
  - (b) inform the customer in writing of its findings within 23 (twenty three) days after the query or complaint was registered.
  - (c) inform the customer if the time in 18.6 (b) cannot be met with reasons.

- 19. APPEALS AGAINST FINDING OF MUNICIPALITY OR ITS AUTHORIZED AGENT IN RESPECT OF QUERIES OR COMPLAINTS**
- 19.1 A customer may appeal against a finding of the municipality or its authorized agent in terms of section 18 in writing.
- 19.2 An appeal and request in terms of sub-section (19.1) must be made in writing and lodged with the municipal manager of the municipality within 21 (twenty one) days after the customer became aware of the findings referred to in section 18 and must-
- (a) set out the reasons for the appeal; and
  - (b) accompanied with relevant documentation/security determined for the testing of a measuring device, if applicable.
- 19.3 The municipality may on appeal by a customer request such a customer to pay an average cost calculated over a period of three months in respect of the amount appealed against.
- 19.4 The customer is liable for all other amounts than that appealed against which is falling due and payable during the adjudication of the appeal.
- 19.5 An appeal must be finalized by the municipality within 21 (twenty one) days after an appeal was lodged and the customer be informed of the outcome in writing within three (3) working days.
- 19.6 The decision of the municipality is final and the customer must pay any amounts due and payable in terms of the decision within seven (7) seven days of being informed of the outcome of the appeal.
- 19.7 The municipality may condone the late lodging of appeals or other procedural grey areas upon good reasons.
- 19.8 If it is alleged in an appeal that a measuring device is inaccurate, the device must be subject to a standard industry test to establish its accuracy. The customer must be informed of possible cost implications including the estimated amount of such test prior to such test being undertaken which estimated costs is payable in advance.
- 19.9 If the outcome of any test shows that a measuring device is-
- (a) within a prescribed range of accuracy, the customer will be liable for the costs of such test and any other amounts outstanding. Such costs will be debited against the customers account.
  - (b) is outside a prescribed range of accuracy, the municipality or its authorized agent will be liable for the costs of such test and the customer be informed of the amount of any credit to which he, she or it is entitled.
- 19.10 The security referred to in sub-section (19.2) (b), if applicable and amount paid in terms of sub-section (19.3) may be-
- (a) retained by the municipality or its authorized agent if the measuring device is found not to be defective; or
  - (b) refunded to the applicant if the measuring device is found in terms of those sub-sections (19) to be defective.

- 19.11 In addition to sub-sections (19.9) and (19.10) the municipality or its authorized agent must if the measuring device is found defective-
- (a) Repair the measuring device or install another device which is in good working order, without charge to the customer, unless the costs thereof are recoverable from the customer in terms of these or any other bylaws of the municipality: and
  - (d) Determine the quantity of municipal services for which the customer will be charged in lieu of the quantity measured by the defective measuring device by taking as basis for such determination, and as the municipality or its authorized agent may decide-
    - The quantity representing the average monthly consumption of the customers during the three months preceding the month in respect of which the measurement is disputed and adjusting such quantity in accordance with the degree of error found in the reading of the defective meter or measuring device;
    - The average consumption of the customer during the succeeding three metered periods after the defective meter or measuring device has been repaired or replaced; or
    - The consumption of services on the premises recorded for the corresponding period in the previous year.

#### **SECTION 6: ARREARS**

#### **20. ARREARS**

If a customer fails to pay the account on or before the due date, services will be discontinued from the 13<sup>th</sup> of the month without notice as reflected on the account.

#### **21. CONSOLIDATE ARREARS**

- 21.1 If one account is rendered for more than one municipal service provided all arrears due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order-
- (a) towards payment of the current account.
  - (b) towards payment of arrears including interest.
  - (c) towards costs incurred in taking relevant action to collect amounts due and payable.
- 21.2 If a consumer makes Council an offer which either equals or exceeds the capital outstanding on the account, to settle his total outstanding debt, the CFO may, at his discretion consider acceptance of such offer as full and final payment of debt.

#### **22. INTEREST**

Interest will be levied on arrears at a rate prescribed by the municipal council from time to time.

#### **23. LIMITATION OR DISCONNECTION OF MUNICIPAL SERVICES**

- 23.1 The municipality or its authorized agent may, after the 13<sup>th</sup> of each month, as reflected on the account -
- (a) disconnect the provision of electricity services to the defaulter; or
  - (b) disconnect water supply services in the event that-
    - no electricity services are provided by the municipality or its authorized agent; or

- the arrears amount exceeds the amount payable in respect of electricity services.
- 23.2 Where the services were discontinued and or limited, those service(s) will not be restored until-
- (a) the customer has paid the current account in full;
  - (b) the customer entered into in agreement for the payment of arrears in installments in terms of section 7 (seven).
- 23.3 The cost associated with the limitation or disconnection of municipal services shall be for the cost of the customer and shall be included in the account for full settlement before such service(s) are reconnected.
- 23.4 In the event that a consumer again falls in arrears, the municipality or its authorized agent will not be obliged to give such consumer the statutory final demand notices for the discontinuation/limitation of municipal services. (To be read with subsection 24.2)
- 23.5 The municipality or its authorized agent will not be liable for any loss or damage suffered by a customer due to his, her or its electricity/water services being disconnect or limited.

#### **SECTION 7 AGREEMENTS FOR THE PAYMENT OF ARREARS IN INSTALMENT**

#### **24. AGREEMENTS**

- 24.1 The following agreements for the payment of arrears in instalments may be entered into-
- an acknowledgement of debt which include
  - a consent to judgment; and/or
  - an emolument attachment order.
- 24.2 Only customers with positive proof of identity or persons duly authorized as a legal representative or a customer will be allowed to enter into an agreement for the payment of arrears in installments.
- 24.3 No customer will be allowed to enter into an agreement for the payment of arrears in installments where that customer failed to honor a previous agreement for the payment **of arrears in installments.**

#### **25. ADDITIONAL COST, PARTIAL SETTLEMENT AND INSTALMENTS**

- 25.1 The costs associated with entering into agreements for the payment of arrears in installments and the limitation of the municipal services in accordance with section 24 shall be included in the arrears amount and payable by the customer.
- 25.2 In the event that a customer proves to the municipality or its authorized agent that he/she or it is unable to pay the amount referred to in sub-section (25.1) on entering may-
- (a) extend the payment thereof to the end of the month in which the customer enters into such an agreement; or
  - (b) include it in the amount payable in terms of the agreement after taking into account the following factors-
    - the credit record of the customer;
    - the arrears amount

- the level of consumption of municipal services;
- the level of service provided to the customer;
- any other relevant factors

25.3 The municipality or its authorized agent shall determine the installments payable in respect of any arrears amount by taking into account the factors referred to in sub-section (25.2) for such installments to be determined by Council from time to time.

## **26. DURATION OF AGREEMENTS**

26.1 The municipality in exercising its discretion under sub-section (25.2) will take into account the following:

- (a) credit record
- (b) consumption
- (c) income level
- (d) level of service
- (e) previous breaches of agreements for the payment of arrears in installments;
- (f) any other relevant factors

26.2 A copy of the agreement shall be made available to the customer.

## **27. FAILURE TO HONOR AGREEMENTS**

If a customer fails to comply with an agreement for the payment of arrears in installments, the total of all outstanding amounts will be immediate due and payable without further notice or correspondence and the municipality or its authorized agent may-

- (a) disconnect the electricity/water supply services provided to the customer
- (b) institute legal action for the recovery of the arrears
- (c) hand the customer's account over to a debt collector or an attorney for collection.

## **28 RE-CONNECTION OF SERVICES**

28.1 An agreement for payment of the arrears in installments entered into as a result of electricity/water disconnected or limitation will not be restored until-

- (a) the agreement for the payment of arrears be finalized and approved by the municipality in terms of the relevant section(s)
- (b) inflating the deposit in terms of section 9.

## **CHAPTER 3 ASSESSMENT RATES**

### **29. AMOUNT DUE FOR ASSESSMENT RATES**

29.1 The provisions of chapter 2 apply in respect of the recovery of assessment rates.



- 29.2 All assessment rates due by owners are payable by a fixed date as determined by the municipality and or applicable legislation.
- 29.3 Joint owners of property shall be jointly and severally liable for payment of assessment rates.
- 29.4 Assessment rates may be levied as an annual single amount or in equal monthly installments.
- 29.5 Payment of assessment rates may not be deferred beyond the fixed date by reason of an objection to the valuation roll.

**30. CLAIM ON RENTAL FOR ASSESSMENT RATES IN ARREARS**

The municipality or its authorized agent may apply to Court for the attachment of any rent due in respect of ratable property to cover in part or in full any outstanding amount in respect of assessment rates for a period longer than three months after the fixed date.

**31. DISPOSAL OF MUNICIPALITY'S PROPERTY AND PAYMENT OF ASSESSMENT RATES**

- 31.1 The purchaser of municipal property is pro rata liable for the payment of assessment rates on the property as from the date of registration in the name of the purchaser in respect of the financial year in which the purchaser becomes the new owner.
- 31.2 In the event that the municipality repossesses the property, any outstanding and due amount in respect of assessment rates shall be recovered from the purchaser.

**32. ASSESSMENT RATES PAYABLE ON MUNICIPAL PROPERTY**

- 32.1 The lessee of municipal property is responsible for payment of any general assessment rates payable on the property for the duration of the lease as if the lessee is the owner of such property.
- 32.2 The municipality or its authorized agent may elect to include the assessment rates in respect of municipality property in the rent payable by the lessee instead of billing it separately as in the case of owners of properties.

**CHAPTER 4: PROVISION OF MUNICIPAL SERVICES TO INDIGENT CUSTOMERS**

**33. QUALIFICATION FOR REGISTRATION**

Indigents are defined as those, due to a number of factors, are unable to make monetary contributions towards basic services, no matter how small the amounts seem to be. Any household earning less than the amount stated by the financial and fiscal commission and/or municipal council from time to time qualifies to be registered as indigent.

**34. APPLICATION FOR REGISTRATION**

- 34.1 A household wishing to qualify as an indigent customer must complete the application form entitled "*application for indigent support*"

- 34.2 Any application in terms of sub-section (37.1) must be accompanied by-
- (a) documentary proof of income such as a letter from the customers employer, salary advice, pension card, unemployment fund card, affidavit declaring unemployment or income;
  - (b) customer's latest municipal account in his/her possession
  - (c) a certified copy of the customer's identity document
  - (d) the names and identity numbers of all occupants over the age of 18 years who are resident at the property.

34.3 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.

34.4 The municipality or its authorized agent shall counter-sign the application form certify that the consequences and conditions of such and application for the customer were explained to the customer and that the customer indicated that the contents of the declaration was understood.

### **35. APPROVAL OF APPLICATION**

35.1 The municipality or its authorized agent may send authorized representative to premises or households applying for registration as an indigent customer to conduct an on-site audit of information provided prior to approval of an application.

35.2 An application received in accordance with section 34 shall be considered by the municipality or its authorized agent and the applicant shall be advised in writing within reasonable time of receipt of such complete application by the municipality or its authorized agent as to whether or not the application is approved. If it is not approved, the applicant shall be given reasons therefore.

35.3 The provisions of chapter 2 section 5 shall mutatis mutandis apply in respect of a customer that feels aggrieved by a decision of the municipality or its authorized agent in terms of sub-section (38.2).

35.4 An application shall be approved for a period of 12 (twelve) months only.

### **36. CONDITIONS**

The municipality or its authorized agent may on approval of an application or any time thereafter install a pre-payment electricity/water meter for the indigent customer where electricity/water is provided by the municipality or its authorized agent; and

### **37. ANNUAL APPLICATIONS**

37.1 An indigent customer must annually re-apply for registration as an indigent customer, failing which the assistance will cease automatically.

37.2 The provisions of sections 36 and 37 shall apply to any application in terms of sub section (40.1).

37.3 The municipality or its authorized agent gives no guarantee of renewal.

**38. SUBSIDIZED SERVICES FOR INDIGENT CUSTOMERS**

- 38.1 The municipal council may annually as part of its budgetary process determine the municipal services and levels thereof that will be subsidized in respect of indigent customers in accordance with national policy, but subject to principles of sustainability and affordability.
- 38.2 The municipal council will in the determination of municipal services that will be subsidized for indigent customers give preference to subsidizing at least the following services-
- (a) water supply services of 6 (six) kiloliters per household per month;
  - (b) sanitation services whichever is the most affordable to the municipality
  - (c) refuse removal services to a maximum of one removal per household per week
  - (d) water/electricity basic/availability charges if applicable
  - (e) electricity 50kwh per household per month
- 38.3 Any other municipal services rendered by the municipality or municipal services consumed in excess of the levels or quantities determined in sub-section 41.1 shall be charged for and the indigent customer shall be liable for the payment of such charges levied on the excess consumption.
- 38.4 The provisions of chapter 2 shall mutatis mutandis apply to the amounts due and payable in terms of sub-section (41.3) a no subsidies allocated will be credited.
- 38.5 The subsidies in terms of sub-section (41.1) shall not exceed the amount billed.

**39. FUNDING FOR SUBSIDIZED SERVICES**

The subsidized services referred to in section 41 shall be funded from the portion of revenue raised nationally that is allocated to the municipality and if such funding are insufficient, then the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

**40. EXISTING ARREARS OF INDIGENT CUSTOMERS ON APPROVAL OF APPLCIATION**

- 40.1 Arrears accumulated in respect of the municipal accounts of customers prior to their first registration as indigent customers will be suspended and interest shall not accumulate on such arrears for the period that a customer remains registered as an indigent customer.
- 40.2 Arrears suspended in terms of sub-section (40.1) shall become due and death with in accordance with Section 11,

**41. AUDITS**

The municipality may undertake regular random audits to:

- (a) verify the information provided by the indigent customer;
- (b) record any changes in the circumstances of indigent customers; and
- (c) make decisions on the de-registration of the indigent customer.
- (d) address other related issues.

**CHAPTER 5 UNAUTHORIZED SERVICES****42. ANAUTHORIZED SERVICES**

- 42.1 No person may gain access to water/electricity supply services unless it is in terms of an agreement entered into with the municipality for the rendering of those services.
- 42.2 The municipality may without compensation confiscate the property or other instruments through which unauthorized services are provide.
- 42.3 No person other than the municipality shall effect a connection to infrastructure through which municipal services are provided.
- 42.4 No person shall prevent or restrict physical access to infrastructure through which water/electricity supply services are provided.
- 42.5 If a person contravenes section 46.3 and 46.4 the municipality may-
- (a) by written notice require such person to restore access at his or her own expenses within a specified period or
  - (b) If it is the opinion that the situation is a matter of urgency without prior notice restore access and recover the cost from such person.

**43. ILLEGAL RE-CONNECTION**

- 43.1 A person who unlawfully and intentionally or negligently reconnects to services/infrastructure after such customers access to municipal services have been restricted or disconnected shall immediately be disconnected.
- 43.2 A person who re-connects as referred to in sub section 47.1 shall be liable for the cost associated with any consumption, penalty charges and other actions that may be taken against such a person.

**44. IMMEDIATE DISCONNETION**

The provision of water/electricity supply services may immediately be disconnection if any person

- (a) unlawfully and intentionally or negligently interfere with or obstruct access to infrastructure through which the municipality provides water/electricity supply services;
- (b) fails to provide information or provide false information reasonable requested by the municipality

**CHAPTER 6 : OFFENCES****45. OFFENCES**

Any person who –

- (a) fails to give access required by the municipality of these by-laws;
- (b) obstructs or hinders the municipality in the exercising of the powers or performance of functions or duties under these by-laws;.
- (c) assists any person in providing false or fraudulent information or assists in willfully concealing information;

- (d) uses, tampers or interferes with municipal equipment, water supply system and reticulation network or consumption of services rendered;
- (e) fails or refuses to give the municipality such information as may reasonably be required for the purpose of exercising the powers of functions under these by-laws;
- (f) gives the municipality false or misleading information, knowing it to be false or misleading;
- (g) unlawfully and intentionally or negligently reconnects to services or unlawfully and intentionally or negligently interferes with infrastructure through which water supply service are provided, after such person's access to municipal services have been restricted or disconnected;
- (h) contravenes or fails to comply with a provision of these by-laws;
- (i) fails to comply with the terms of a notice served upon him/her in terms of these by-laws:  
shall be guilty of an offence and liable upon conviction to a fine of R1000 (One thousand rand) or to a period not exceeding 6 (six) months or to both such fine and imprisonment.

## CHAPTER 7: DOCUMENTATION

### 46. SIGNING OF NOTICES AND DOCUMENTS

A notice or document issued by the municipality in terms of these by-laws and signed by a staff member of the municipality or its authorized agent shall be deemed to be duly issued and must on its mere production be accepted by a court as evidence of that fact.

### 47. NOTICES AND DOCUMENTS

1. A notice or document issued by the municipality in terms of these by-laws shall be deemed to be duly authorized if a staff member of the municipality or an authorized agent signs it.
2. Any notice or other document that is served on an owner, customer or any other person in terms of these by-laws 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 village, place of residence, or business or employment in the Republic with a person apparently 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 address 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 (a) – (c); or
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates.
3. When any notice or other document must be authorized 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, 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.

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.

**48. 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 authorized officer of the municipality or the authorized agent of the municipality; such authority being conferred by resolution of the municipality, written agreement or by a by-law.

**49. PRIMA FACIE EVIDENCE**

In legal proceedings by or on behalf of the municipality, a certificate reflecting the amount due and payable to the municipality, under the hand of the municipal manager, or suitably qualified municipal staff member authorized by the municipal manager or the Manager of the municipality's authorize agent, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

**CHAPTER 8: GENERAL PROVISIONS**

**50. RESPONSIBILITY FOR COMPLIANCE WITH THESE BY-LAWS**

1. The owner of premises is responsible for ensuring compliance with these by-laws in respect of all or any matters relating to any water/electricity installation.
2. The customer is responsible for compliance with these by-laws in respect of matters relating to the use of any water/electricity installation.

**51. POWER OF ENTRY AND INSPECTION**

The municipality may enter and inspect any premises for any purpose connected with the implementation or enforcement of these by-laws, at all reasonable times, after having giving reasonable written notice to the occupier of the premises of the intention to do so.

**52. AVAILABILITY OF BY-LAWS**

A copy of these by-laws shall be included in the municipalities' Municipal code as required in terms of legislation.

**53. CONFLICT OF LAW**

1. When interpreting provision of these by-laws, any reasonable interpretation which is consistent with the purpose of the Act, must be preferred over any alternative interpretation which is inconsistent with that purpose.
2. If there is any conflict between these by-laws and any other by-laws of the Council, these by-laws will prevail.

**54. TRANSITIONAL ARRANGEMENTS**

1. Installation work authorized by the municipality prior to the commencement date of these by-laws or authorized installation work in progress on such date shall be deemed to have been authorized in terms of these by-laws.
2. The municipality may for a period of 90 days after the commencement of these by-laws authorize installation work in accordance with the by-laws that regulated such work immediately prior to the promulgation of these by-laws.
3. No customer shall be required to comply with these by-laws by altering a water/electricity installation or part thereof which was installed in conformity with any laws applicable immediately prior to the commencement of these by-laws; provided that if, in the opinion of the Municipal Manager, the installation or part thereof is so defective or in such a condition or position as to cause waste or undue consumption of water, pollution of the water supply or a health hazard, the Municipal Manager may by notice require the customer to comply with the provisions of these by-laws.

**55. INDEMNIFICATION FROM LIABILITY**

1. Neither an employee of the municipality nor any person, body, organization or corporation acting on behalf of the municipality is liable for any damage arising from any omission or acts done in the cause of his or her duties and in good faith.

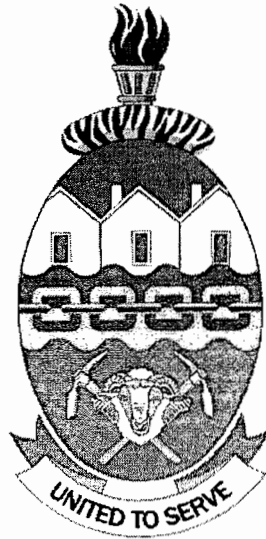
**SHORT TITLE AND COMMENCEMENT**

These by-laws are called the Credit Control and Debt Collection By-Laws of the Inxuba Yethemba Municipality and will commence by notice in the Provincial Gazette.

**No. 143**

# **INXUBA YETHEMBA**

## **LOCAL MUNICIPALITY**



### **PROPERTY RATES BY-LAW**



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## INXUBA YETHEMBA LOCAL MUNICIPALITY

### PROPERTY RATES BY-LAW

Whereas Section 156 (2) of the Constitution empowers a municipality to make and administer by-laws for the effective administration of matters which it has the right to administer and Whereas Section 6 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) requires a municipality to adopt by-laws to give effect to the implementation of its Rates Policy.

Now therefore the Municipal Council of **Inxuba Yethemba Local Municipality** approves and adopts the following Property Rates By-Law.

**1. Definitions:**

For the purpose of this by-law any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) and the Property Rates Policy adopted and implemented in terms thereof shall bear the same meaning in this by-law, and unless the context indicates otherwise-

“**act**” means the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004).

“**municipality**” means the municipal council for the **municipal area of Inxuba Yethemba**

“**rates policy**” means the policy adopted and implemented by the Council in terms of section 3 of the act.

**2. Rating of property:**

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; and
- (d) This By-Law

**3. General Principles:**

- (1) Rates to balance the operating budget after taking into account the profits generated on trading and economic services and the amounts required to finance the exemptions, rebates and reductions as approved by council are levied as an amount in the Rand based on the market value of all rateable property contained in the municipality's valuation roll.
- (2) Criteria are provided for the determination of categories of property and owners and for the purpose of levying different rates on categories of property and owners.

- (3) Different rates will be levied for different categories of rateable property.
- (4) Relief measures in respect of payment for rates will not be granted to any category of property or owners on an individual basis, other than by way of an exemption, rebate or reduction.
- (5) All ratepayers with similar properties will be treated the same.
- (6) The financial ability of a person to pay rates will be taken into account.
- (7) Provision may be made for the promotion of local social development and sustainable local government.
- (8) The rate imposed by council will be equitable, affordable, sustainable and cost effective
- (9) Property rates will be used to finance subsidised and community services only.
- (10) Take into account the effect of rates on the poor.
- (11) The cost and benefit of exemptions, rebates, reductions, and phasing –in of rates must be identified and qualified.
- (12) The effect of rates on public benefit organisations and psi's must be taken into account.
- (13) Promote local and social economic development.

**4. Classification of services and expenditure:**

- (1) The municipal manager or his/her nominee subject to the guidelines provided by the National Treasury and Executive Mayor or Committee and principles contained in the Property Rates Policy will classify services, categorise expenditure and create cost centres to prevent that property rates subsidise trading and economic services
- (2) Trading and economic services will be ringfenced and financed from service charges while community and subsidised services will be financed from rates, rates related income and regulatory fees. Surpluses on the trading and economic services may be transferred to subsidise the community and subsidised services.

**5. Categories of properties and owners:**

- (1) In terms of Section 3(3) of the Act the municipality must determine the criteria for the determination of categories of property and owners for granting exemptions, reductions and rebates and criteria if it levies different rates for different categories of property.
- (2) In terms of sections 8(1) and 15(1) read in conjunction with section 19 of the Act the municipality may exempt a category of owner of property from rates or grant a rebate or reduction in the rates.
- (3) The criteria for categories of property and owners and the different categories of property and owners are reflected in the municipality's Property Rates Policy and may be adjusted annually, if required, during the budget process.

**6. Properties used for multiple purposes:**

Rates on properties used for multiple purposes will be levied on properties used for-

- (a) a purpose corresponding with the permitted use of the property, if the permitted use of the property is regulated;
- (b) a purpose corresponding with the dominant (main or primary) use of the property; or
- (c) by apportioning the market value of a property to the different purposes for which the property is used. ***If the market value of the property can be apportioned each portion must be categorized according to its individual use. If the market value of the property cannot be apportioned to its various use purposes, then such a property must be categorised as either (a) or (b) above ; and***
- (d) applying the relevant cent amount in the rand to the corresponding apportioned market value.

**7. Differential rating:**

- (1) Criteria for differential rating on different categories of properties in terms of section 8(1) of the Act will be according to-
  - (a) The use of the property.
  - (b) Permitted use of the property; or
  - (c) Geographical area in which the property is situated.
  - (d) The nature of the property, including its sensitivity for rating
  - (e) Promotion of social and economic development of the municipality.

- (2) Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category and/or by way of reductions and rebates

**8. Criteria for exemptions, reductions and rebates:**

Criteria for determining categories of owners of property for the purpose of granting exemptions, rebates and reductions in terms of section 15(2) of the Act will be according to-

- (a) indigent status of the owner of a property
- (b) sources of income of the owner of a property
- (c) owners of property situated within an area affected by-
  - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
  - ii. any other serious adverse social or economic conditions;
- (d) owners of residential properties with a market value below a determined threshold
- (e) owners temporarily without income
- (f) the services provided to the community by public service organisations
- (g) the need to preserve the cultural heritage of the local community
- (h) the need to encourage the expansion of psi's
- (i) the need to accommodate indigents, less affluent pensioners and people depending on social grants for their livelihood.
- (j) the inability of residential property owners to pass on the burden of rates, as opposed to the ability of the owners of business, commercial, industrial and certain other properties to recover such rates as part of the expenses associated with the goods or services, they produce
- (k) the value of agricultural activities to the local economy coupled with the limited municipal services extended to such activities, but also taking into account the municipal services provided to municipal residents who are employed in such activities. ; or
- (l) owners of agricultural properties who are *bona fide* farmers
- (m) the requirements of the Act.

**9. Impermissible Rates:**

The municipality may not levy rates on categories of property and categories of owners of property as determined in sections 16(1) & 17(1) of the Act.

**10. Exemptions:****Categories of properties:**

- (1) Over and above the exemptions provided for in paragraph 9 above, specific categories of property as indicated in the table below are exempted from the payment of rates within the meaning of section 15(1)(a) of the Act and 9(2) to 9(7) of this by-law.

<b>Description of category of property</b>	<b>Criteria</b>
Municipal properties	10(2)
Residential properties	10(3)
Cemeteries and Crematoriums	10(4) and 10(10)
Municipal Public service infrastructure	10(5) and 10(10)
Public Benefit organisations	10(6) and 10(10)
Museums	10(7) and 10(10)
National Monuments	10(8) and 10(10)
A right registered against immovable property	10(9) and 10(10)

- (2) Municipal properties are exempted from paying rates as it will increase the rates burden or service charges to property owners or consumers.
- (3) All residential properties (including informal settlements) with a market value of less than R 15, 000 are exempted from paying rates. The R 15 000 impermissible rates contemplated in terms of section 17(1) (h) of the Property Rates Act is included in the R 15, 000 amount.  
This is an important part of the council's indigent policy and is aimed primarily at alleviating poverty
- (4) Cemeteries and crematoriums registered in the names of private persons and operated not for gain.
- (5) Public benefit organisations as provided for in the Rates Policy may apply for the exemption of property rates subject to producing a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (No 58 of 1962):
- (6) Registered Museums
- (7) Registered National monuments

(8) A right registered in the deeds office against immovable property

(9) Exemptions will be subject to the following conditions:

- (a) all applications must be addressed in writing to the municipality;
- (b) a SARS tax exemption certificate must be attached to all applications;
- (c) the municipal manager or his/her nominee must approve all applications;
- (d) applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought; and
- (f) the municipality retains the right to refuse exemptions if the details supplied in the application form were incomplete, incorrect or false.

**11. Rebates:**

**(1) Categories of properties**

(a) The municipality may grant rebates within the meaning of section 15(1) (b) of the Act on the rates to the owners of the following categories of properties and subject to the criteria and conditions contained in 10(1)(b) to 10(1)(f) of this by-law:

<b>Description of category of property</b>	<b>Criteria</b>
(a) Residential	10(1)(d)
(b) Industrial	10(1)(b)
(c) Business/commercial	10(1)(b)
(d) Agricultural	10(1)(e)
(e) state-owned properties	10(1)(c)
(f) Property below a prescribed valuation level	10(1)(f)

(b) The municipality may grant rebates to rateable enterprises that promote local, social and economic development in its area of jurisdiction, based on its Local, Social and Economic Development Policy.

i. The following criteria will apply:

- a. job creation in the municipal area;
- b. social upliftment of the local community; and
- c. creation of infrastructure for the benefit of the community.

- ii. Rebates may be granted on application subject to:
  - a. a business plan issued by the directors of the company indicating how the local, social and economic development objectives of the municipality are going to be met;
  - b. a continuation plan issued by the directors and certified by auditors of the company stating that the objectives have been met in the first year after establishment and how the company plan to continue to meet the objectives;
  - c. an assessment by the municipal manager or his/her nominee indicating that the company qualifies; and
  - d. a municipal resolution.

(c) State properties

(d) Residential properties

- i. used predominantly for residential purposes, with not more than two dwelling units per property,
- ii. registered in terms of the Sectional Title Act,
- iii. owned by a share-block company,
- iv. a rateable residence on property used for or related to educational purposes

(e) Properties with a market value below a prescribed valuation level may, instead of a rate determined on the market value, be levied a uniform fixed amount per property.

(2) **Categories of owners:**

- (a) The following categories of owners of rateable properties may be granted a rebate on rates within the municipality within the meaning of section 15(1) (b) of the Act:

<b>Description of Category of Owners</b>	<b>Criteria</b>
Retired and disabled persons	10(2)(b)
Owners temporarily without income	10 (2) (c)
Public benefit organisations	10(2) (d)

(b) Criteria for granting rebates to category of owners

- i. Retired and Disabled Persons Rate Rebate  
To qualify for the rebate a property owner must:



- a. occupy the property as his/her normal residence;
  - b. be at least 60 years of age or in receipt of a disability pension from the Department of Welfare and Population Development;
  - c. be in receipt of a total monthly income from all sources (including income of spouses of owner) not exceeding the amount annually set by the council .
  - d. not be the owner of more than one property; and
  - e. provided that where the owner is unable to occupy the property due to no fault of his/her own, the spouse or minor children may satisfy the occupancy requirement.
- ii. Property owners must apply on a prescribed application form for a rebate as determined by the municipality.
  - iii. Applications must be accompanied by-
    - a. a certified copy of the identity document or any other proof of the owners age which is acceptable to the municipality;
    - b. sufficient proof of income of the owner and his/her spouse;
    - c. an affidavit from the owner;
    - d. if the owner is a disabled person proof of a disability pension payable by the state must be supplied; and
    - e. if the owner has retired at an earlier stage for medical reasons proof thereof must be submitted.
  - iv. These applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought.
  - v. The municipality retains the right to refuse rebates if the details supplied in the application form are incomplete, incorrect or false.
- (c) Owners who are temporarily without income due to economic/labour circumstances or for reasons beyond their control

These applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought.

The municipality retains the right to refuse rebates if the details supplied in the application form are incomplete, incorrect or false

- (d) Owners of rateable property registered in the name of institutions or organisations, which in the opinion of the council, performs welfare, charitable and humanitarian work; cultural work; amateur sport and social activities; protect or maintain collections or buildings of historical or cultural interest, including art galleries, archives and libraries; conservation; environment and animal welfare; education and development; health care; agricultural (Experimental farms); municipal property and usage where the council is engaged in land sales transactions which take place after the financial year has started; where the municipality register a road reserve or servitude on a privately owned property a pro-rata rebate equal to the value of the reserve or servitude will be given to the owner; state hospitals, clinics and institutions for mentally ill persons, which are not performed for gain.

These applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought.

The municipality retains the right to refuse rebates if the details supplied in the application form are incomplete, incorrect or false

## **12. Reductions:**

### **(1) Categories of property and owners**

- (a) A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act will be granted where the value of a property is affected by-
- i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
  - ii. any other serious adverse social or economic conditions
- (b) The reduction will be in relation to the certificate issued for this purpose by the municipal valuer
- (c) All categories of owners can apply for a reduction in the rates payable as described above
- (d) Owners of the following categories of rateable property situated within the municipality may be granted a reduction within the meaning of section 15(1) (b) of the

Act on the rates payable in respect of their properties and subject to the conditions contained in 11(1)(e) of this by-law:

Description of category of property	Criteria
(a) Residential	11(1)(e)
(b) Industrial	11(1)(e)
(c) Business	11(1)(e)
(d) Agricultural	11(1)(e)
(e) state-owned properties	11(1)(e)
(f) Municipal properties	11(1)(e)
(g) Public service infrastructure	11(1)(e)
(h) Informal settlements	11(1)(e)
(i) Properties -	
(i) Acquired through the Provision of Land Assistance Act, 1993, or the Restitution of Land Rights Act, 1994, or	11(1)(e)
(ii) which is subject to the Communal Property Associations Act, 1996	11(1)(e)
(j) Protected areas	11(1)(e)
(k) National monuments	11(1)(e)
(l) Public benefit organizations (Part 1 of the Ninth Schedule to the Income Tax Act)	11(1)(e)
(m) Multiple purposes	11(1)(e)
(n) Private towns serviced by the developers	11(1)(e)
(o) private towns serviced and maintained by the developers	11(1)(e)

(e) Criteria for granting reductions

- i. A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act will be granted where the value of a property is affected by fire damage, demolition or floods.
- ii. The reduction will be in relation to the certificate issued for this purpose by the municipal valuer.

**13. Cost of exemptions, rebates & reductions:**

The Chief financial Officer must inform the council of all the costs associated with the exemptions, rebates & reductions. Provisions must be made in the operating budget for the full potential income associated with property rates, and the full cost of the exemptions, rebates & reductions. A list of all exemptions, rebates & reductions must be tabled before council.

**14. Phasing-in of certain rates:**

Rates levied on newly rateable property must be phased in over a three year period, the MEC for Local Government may extend, on written request by the municipality, this period to a maximum of six financial years. When extending the period the MEC must determine the minimum phasing-in discount on the rate payable during each financial year in the extended period.

**15. Rates increases:**

- (1) The municipality will consider increasing rates annually during the budget process in terms of the guidelines issued by National Treasury from time to time. The following table is the guide in terms of determining the tariffs.

The rate on the categories of non residential property listed in the first column of the table below may not exceed the ratio to the rate on residential properties in the second column of the table below.

Category	Ratio in relation to residential property
Residential Property	1:1
Agricultural Property	1:0.25
Public Service Infrastructure Property	1:0.25
Public Benefit Organisation Property	1:0.25

The first number in the second column of the table represents the ratio to the rate on residential properties. The second number in the second column of the table represents the maximum ratio to the rate on residential property that may be imposed on the non-residential properties listed in the first column of the table.

- (2) Rate increases will be used to finance the increase in operating costs of community and subsidised services.

- (3) Relating to community and subsidised services the following annual adjustments will be made:
  - (a) All salary and wage increases as agreed at the South African Local Government Bargaining Council
  - (b) An inflation adjustment for general expenditure, repairs and maintenance and contributions to statutory funds, and
  - (c) Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.
- (4) Extraordinary expenditure related to community services not foreseen during the previous budget period and approved by the council during a budget review process will be financed by an increase in property rates.
- (5) Affordability of rates to ratepayers.
- (6) All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.

**16. Notification of rates:**

- (1) The municipality will give notice of all rates approved at the annual budget meeting at least 30 days prior to the date that the rates become effective. Accounts delivered after the 30 days notice will be based on the new rates.
- (2) A notice stating the purport of the municipality's resolution and the date on which the new rates become operational will be displayed by the municipality at places provide for in legislation, council's resolutions, the Provincial Gazette and the council's web site

**17. Payment of rates:**

- (1) Ratepayers may, by special written arrangements with the council, choose to pay rates annually in one instalment on or before 30 September, normally the rates will be payable in twelve equal instalments on or before the tenth day of the month following on the month in which it becomes payable.
- (2) The municipality must furnished each person liable for rates with a detailed account as set out in section 27 of the Act.
- (3) Interest on arrear rates, whether payable on or before 30 September or in equal monthly instalments, shall be calculated in accordance with the provisions of the credit control, debt collection and indigent policy of the municipality.

- (3) If a property owner, who is responsible for the payment of property rates in terms of this policy, fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Credit Control, Debt Collection and indigent policy of the Municipality.
- (5) Joint owners are jointly and severally liable for the amount due for rates. In the case of agricultural property the rates due will be recovered as stipulated in the council's Property Rates Policy
- (6) Arrear rates shall be recovered from tenants, occupiers and agents of the owner, in terms of section 28 and 29 of the Act.
- (7) Where the rates levied on a particular property has been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.
- (8) In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

**18. Deferral of payment of rates liabilities:**

The municipality will consider each application for deferral of rates, taking into account the merits and demerits of each and the financial implications thereof in so far the cash-flow of the municipality is concerned

**19. Special rating area:**

The municipality may by council resolution, after consultation with the local community to obtain the majority's consent, determine an area within its boundaries as a special rating area for the purpose of raising funds for improving or upgrading that area; and differentiate between categories of property when levying an additional rate.

The municipality must determine the boundaries and indicate how the area is to be improved by the additional rates. Establish a separate accounting and record-keeping system regarding the income & expenditure.

The municipality may establish a committee representing the

community to act as a consultative and advisory forum. Representivity, including gender must be taken into account when establishing such a committee.

**20. Interim Valuation Debits:**

In the event that a property has been transferred to a new owner and an Interim Valuation took place, the previous owner as well as the new owner will jointly and separately be held responsible for the outstanding amount due for rates.

**21. Ownership:**

Properties which vests in the municipality during developments, i.e open spaces and roads should be transferred at the cost of the developer to the municipality. Until such time, rates levied will be for the account of the developer

**22. Rates Clearance Certificate:**

Rates clearance certificates will be valid until 30 June of a financial year, if monies is paid in full until such date. However, should a request to extend the certificate for 120 days beyond this date be received and this extension surpasses the date of 30 June, the new year's rates become payable in full.

**23. Sectional Title Schemes:**

A rate on property which is subject to a sectional title scheme, will be levied on the individual sectional title units in the scheme.

**24. General and Supplementary valuations:**

A municipality intending to levy a rate on property must cause a general valuation based on the market value of the property to be made on all properties, and prepare a valuation roll in terms of such valuation.

The municipality shall prepare a new general valuation roll of all properties every (4) four years and a supplementary valuation roll annually.

If the municipality does not intend to levy rates on its own properties, public infrastructure in the name of the municipality ,on rights in properties and properties of which it is impossible or unreasonably difficult to establish the market value because of legal insecure tenure resulting from past racial discrimination, the municipality is not obliged to value such property.

The General valuation roll takes effect from the start of the financial year following completion of the public inspection period and remains valid for that financial year or for one or more subsequent financial years, as the municipality may decide, but in total not for more than 4 (four) financial years.

The Supplementary Valuation roll takes effect on the first day of the month following the completion of the public inspection period required in terms of section 49 of the Act. and remains valid for the duration of the current general valuation roll.

**25 Disregarded items for valuation purposes:**

The items described in section 45(3) of the Act must not be taken into account in determining the market value of the property.

**26. Short title:**

This by-law is the Property Rates By-law of the Inxuba Yethemba Local Municipality.

**27. Commencement:**

This By-Law comes into force and effect on 1 July .....2009



**No. 144****INXUBA YETHEMBA MUNICIPALITY  
BY-LAW RELATING TO THE ADMINISTRATION AND MANAGEMENT  
OF INDIGENT SUPPORT**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Inxuba Yethemba Municipality, enacts as follows:-

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## 1. Definitions

In this by-law, unless the context indicates otherwise-

**“child headed household”** means a household where both parents are deceased and where all occupants of the property are children of the deceased and are under the legal age to contract for services;

**“household”** means as a registered owner or tenant with or without children who reside on the same premises;

**“IDP”** means the approved Integrated Development Plan of the municipality;

**“indigent”** means any household or category of households, including a child headed household, earning a combined gross income, as determined by the municipality annually in terms of a social and economic analysis of its area, which qualifies for rebates/remissions, support or a services subsidy; provided that disability, foster and child support grants are not included when calculating such household income;

**“Indigent Management System”** an electronic management system applied by Inxuba Yethemba Municipality for the management of the register of indigent households;

**‘indigent register’** means the Microsoft Access database, which has to be updated on a monthly basis, designed to contain all the inputted data contained within completed indigent application forms which contains the following key information:

- Indigent customer details
- Socio-economic details
- Skills details

In addition the indigent register is able to provide reports relating to, but not limited to the following:

- Indigent application exceptions
- Skills reporting required for LED/exit strategy
- Socio economic reporting

**“municipality”** means the municipality of Inxuba Yethemba established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorized agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**“official”** means any official in the employment of the municipality or an agent or service provider appointed by the municipality;

**‘premises’** includes any piece of land, the external surface boundaries of which are delineated on -

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1997 (Act No. 8 of 1997) or in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (b) a general plan registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986], and situated within the jurisdiction of the municipality;

**“chief financial officer”** means an official duly authorised by the municipality, or an employee of a service provider appointed by the municipality, who is responsible to ensure that the Indigent Support Policy of the municipality is implemented;

## 2. Principles and objectives

The municipality, aware of the constitutional right of every person to health care, food, water and social security and the principles that underlie the National Policy Framework for the provision of free basic services to the poor, adopts this by-law in conjunction with applicable National legislation, to give effect to the municipality's Indigent Support Policy and to provide a legal and administrative framework within which the municipality can develop and manage its mandate to provide free basic services to those households targeted for such support.

## CHAPTER 1: POWERS AND OBLIGATIONS OF THE MUNICIPALITY

### 3. Adoption of an Indigent Support Policy

- (1) The municipality must, in consultation with its community and based on a socio-economic analysis, adopt a policy as a framework for the provision of free basic services to households targeted for such support in its area of jurisdiction.
- (2) The policy contemplated in subsection (1) must be revised annually during consideration of the budget for the next financial year.

### 4. Alignment of policy with IDP objectives and related policies

The policy contemplated in section 3(1) must be developed within the framework of the municipality's approved IDP and related policies as well as the local economic development strategy and poverty alleviation programme of the municipality.

### 5. Institutional arrangements

- (1) The municipality must establish an indigent support unit, under supervision of the Chief Finance Officer, for the effective implementation of the Indigent Support Policy with specific reference to-
  - (a) the communication of the policy to the community;
  - (b) the provision of registration points for applications for indigent support;
  - (c) the rendering of assistance with the receipt and processing of such applications;
  - (d) the undertaking of site visits for the purpose of-
    - (i) verification of applications;
    - (ii) assistance to applicants who cannot visit registration points because of a lack of transport or physical disablement; and
    - (iii) any other form of assistance to give effect to the objectives of the Indigent Support Policy; and
  - (e) the promotion of public awareness with regard to the policy;
- (2) The Chief Financial Officer shall be responsible for-
  - (a) the appointment and training of the staff of the unit;
  - (b) the establishment of an electronic Indigent Management System for the effective administration and processing of applications; and
  - (c) the development of a Procedures Manual in terms of which applications are received and processed.

### 6. Capacity Building

The municipality must ensure that all officials and councillors are appropriately capacitated in Free Basic Services in terms of the following key areas-

- (a) database management;
- (b) demand and revenue management; and
- (c) policy and by-law implementation.

**CHAPTER 2: EXTENT OF INDIGENT SUPPORT****7. Assistance and support**

- (1) Based on budgetary allocations and the tariffs determined by the municipality for each financial year, it may grant assistance in the form of subsidies or contributions to indigent households in respect of services including, but not limited to-
  - (a) water;
  - (b) electricity;
  - (c) basic energy;
  - (d) refuse removal;
  - (e) sanitation;

**CHAPTER 3: PROCESS MANAGEMENT****8. Criteria for indigent support**

- (1) The municipality must, as part of the annual budget process, determine the criteria in terms of which applications for indigent support will be considered.
- (2) Depending on the financial performance of the municipality and information furnished by the Chief Financial Officer, the determinations in terms of subsection (1) may be reconsidered and adjusted during a financial year where necessary.

**9. Targeting of indigent households**

Based on the socio-economic information contained in the municipality's IDP and other planning instruments, appropriate methods for the targeting of indigent households must be developed by the municipality as part of its Indigent Support Policy.

**10. Involvement of communities, traditional leaders, government departments and Eskom**

The policy contemplated in section 3(1) must provide for a communication strategy in terms of which communities, traditional leaders, where applicable, government departments and Eskom will be involved on a continuous basis with regard to the objectives of the policy and the implementation thereof.

**11. Processing of applications**

The Chief Financial Officer must ensure that applications for indigent support are registered and processed on a continuous basis on the Indigent Management System according to the procedures contained in the manual contemplated in section 5(2)(c).

**12. Verification of applications**

- (1) The municipality may, when deemed necessary, conduct audits to verify applications for information furnished or possible changes in the status of applicants.
- (2) Such audits must be conducted according to the procedures contained in the Procedures Manual.

**13. Termination of indigent support**

- (1) Any customer who provides false information in the application form and/or any other documentation and information in connection with the application -
  - (a) shall automatically without notice be de - registered as an indigent customer from date on which the municipality or its authorized agent became aware that such information is false; and

- (b) shall be held liable for the payment of all services received in addition to any other legal actions the municipality or its authorized agent may take against such customer.
- (c) shall never in future be allowed to register as an indigent customer whatever the circumstances he/she may have to endure in future.
- (2) An indigent customer must immediately request de - registration by the municipality or its authorized agent if his or her circumstances have changed to the extent that he or she no longer meets the qualifications to register as an indigent.
- (3) An indigent customer shall automatically be de - registered if an application is not annually renewed or if such application is not approved.
- (4) An indigent customer may at any time request de - registration.

#### **14. Exit from indigence**

The Indigent Support Policy of the municipality must provide for measures to assist indigent households to exit from the support programme and to participate in local economic development initiatives.

#### **15. Monitoring and reporting**

- (1) The Chief Financial Officer must report monthly to the Municipal Manager via the municipality's Service Delivery and Budget Implementation Plan to enable the Municipal Manager to report to Council and other interested parties.
- (2) Such report must reflect on the information as laid down in the Indigent Support Policy and must specifically refer to performance against targets and indicators set with regard to indigent support.

### **CHAPTER 4: GENERAL PROVISIONS**

#### **16. Misconduct by officials**

- (1) An official of the municipality commits an act of misconduct if he or she deliberately or negligently-
  - (a) contravenes a provision of this by-law;
  - (b) fails to comply with a duty imposed by a provision of this by-law;
  - (c) makes or permits, or instructs another official of the municipality to make, an unauthorised, irregular or fruitless and wasteful expenditure; or
  - (d) provides incorrect or misleading information in any document or report relating to any activity in terms of this by-law;
- (2) The municipality must-
  - (a) investigate allegations of misconduct or suspected misconduct against an official of the municipality unless such allegations or suspicion are speculative or unfounded; and
  - (b) if the investigation warrants such a step, institute disciplinary proceedings against the official in accordance with systems and procedures referred to in section 67 of the Municipal Systems Act, read with Schedule 2 of that Act.

#### **17. Offences and penalties**

Any person who-

- (a) knowingly provides false or misleading information in an application for indigent support; or
- (b) fails to notify the municipality of change in status to the extent that the income threshold determined annually is exceeded; or

- (c) interferes with or obstructs an official of the municipality in the execution of his duties performed in terms of this by-law; or
- (d) interferes with any measuring- or restrictive device provided by the municipality in terms of the Indigent Support Policy; or
- (e) fails to comply with any condition or instruction imposed in terms of the Indigent Support Policy;

commits an offence and upon conviction shall be liable to-

- (i) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment;
- (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued;
- (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

#### **18. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

#### **19. Authentication and service of notices**

- (1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person is regarded as duly served –
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the 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 by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in 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 it is not necessary to name that person.

#### **20. Short title and commencement**

This by-law shall be known as the By-law relating to the Administration and Management of Indigent Support and shall come into operation on the date of publication thereof in the Provincial Gazette.