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KWAZULU-NATAL PROVINSIE
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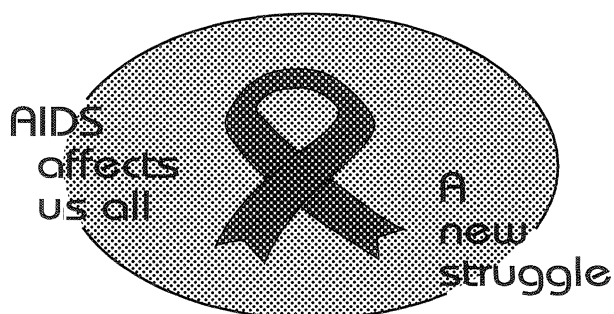
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PIETERMARITZBURG,

28 JUNE 2012
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No. 767

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MUNICIPAL NOTICES

No. 50

28 June 2012



KWADUKUZA **MUNICIPALITY**

RATES BY-LAWS

KWADUKUZA
M U N I C I P A L I T Y

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 2012.

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**
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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 –

“Agent” 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 the use of a property, for agricultural purposes which excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game

“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”

A person designated as an assistant municipal valuer in terms of Section 35(1) or (2) of the Act.

“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”

A person designated as a data- collector in terms of section 36 of the Act.

“Date of valuation”

The date determined by a municipality in terms of Section 31(1) of the Act

“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 an old order right or a new order right as defined in Section 1 of the Communal Land Rights Act, 2004 (Act No. # of 2004);

“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

“MPRA”

Municipal Property Rates Act No. 6 of 2004 and Regulations framed there under.

“multiple purposes”,

In relation to property, means the use of property for more than one purpose;

“municipal council” or **“council”** means the council of the KwaDukuza Municipality as constituted to in 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”

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”

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;

“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;
- (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
 - (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.

“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 publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across the 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 scheme serving the public;
- (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 communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (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 navigation aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) rights of way, easements or servitudes in connection with infrastructure mention in paragraphs (a) to (i).

“rate” means a municipal rate on property envisaged in section 229(1)(a) of the Constitution, 1996;

“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) of the Act as residential;

“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);

“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;

a) over which land tenure rights were registered or granted; or

b) 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).

“the Act” means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) and the regulations as promulgated in terms of the said Act.

“Vacant land” means land on which no immovable improvements have been erected.

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.

- KwaDukuza.
- 3.5 To promote growth and investment in the municipality of
 - 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/indigent ratepayers , provides effective relief measures.

4. DIFFERENT CATEGORIES OF PROPERTY

4.1 The different categories of properties determined by council as specified in the rates policy includes but is not limited to those set out below:

- i) Residential properties.
- ii) Residential properties used for commercial purposes
- iii) Residential properties used for hospitality purposes
- iv) Industrial , business and commercial properties including privately run institutions
- v) Agricultural Properties:
 - Agricultural properties used for agricultural purposes
 - Agricultural properties used for other business and commercial purposes.
 - Agricultural properties used for residential purposes.
 - Agricultural properties not used for any purpose
 - Small holdings used for agricultural purposes.
 - Small holdings used for residential purposes.
 - Small holdings used for industrial, business and commercial purposes.
- vi) State owned properties.
- vii) Municipal properties.
- viii) Public service infrastructure.
- ix) Informal settlements.
- x) Properties acquired through the provision of the Land Assistance Act 1993 (Act No. 126 of 1993), or the Restitution of Land Rights Act 1994 (Act No. 22 of 1994).
- xi) Properties on which national monuments are proclaimed.
- xii) Properties owned by public benefit organisations and used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act.
- xiii) Vacant land.
- xiv) Worship
- xv) Multiple use properties

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 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 following process as set out in the rates policy below and as indicated 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) of the Act in respect of residential properties or properties used for multiple 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, or zoned as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an 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 State properties

10.2.3.1 The Council shall grant the following state properties a rebate:

- i) Clinics.
- ii) Local hospitals.
- iii) Police stations.
- iv) Magistrate's courts.
- v) All public schools.
- vi) Local offices of any Government department e.g. Department of Home Affairs.

10.2.3.2. The Council may amend 10.2.3.1 above in the rates policy of Council which shall be amended from time to time

10.2.4 Agricultural properties

10.2.4.1. The Council shall comply with Section 3(4) of the Act in respect of properties used for agricultural purposes.

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 Council shall only grant rates rebates to commercial and industrial properties in terms of existing service agreements.

10.2.7.2 The Council may in exceptional circumstances enter into service level agreements for commercial, industrial and manufacturing industries, where specific benefits will accrue to communities.

10.2.7.3. The Council shall by resolution determine the criteria for measuring these benefits as and when adopted by Council.

10.2.8 Developers Incentives (Residential)

10.2.8.1 That primary Developers who have signed a Service Level Agreement with Council will be entitled to the rebates as set out in the rates policy of Council which shall be amended by Council from time to time.

10.2.8.2 A parent property shall be rated from date of approval 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.

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 the furtherance of the objective of the Organisation and it is not used for income generation.

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.

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 Policy.

14. SHORT TITLE

These by-laws will be called the Rates Bylaws of the KwaDukuza Municipality.

15. COMMENCEMENT

These by-laws come into force and effect on 1st July 2012 on date of promulgation of this bylaw.

16. REPEAL

All previous Municipal Bylaws, and amendments thereto, relating to Rates are hereby repealed.

No. 51

28 June 2012

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 2012.

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: - <ol style="list-style-type: none"> (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 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 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: -

- (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 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:

- (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 authorised 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 THE ACCOUNTS FOR THE SAID SERVICES WILL BE LINKED TO THE RATES ACCOUNT OF THE OWNER (check wording)
- 2.2.3 No application or amendment to the customer database can be processed unless legal documentation acceptable to the Chief Financial Officer 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. 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 of such change.

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 subsidised 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.
- 5.3. Services will be terminated due to non-payment on the terms and conditions as stipulated in the Credit Control and Debt Collection Policy.
- 5.4. Deferment for payment of service accounts can be granted to consumers in terms of the Municipality's delegated powers and conditions approved in its Credit Control and Debt Collection Policy.

- 5.5. The municipality may consolidate any separate accounts of persons who are liable for payment to the municipality and may credit all payments received from such a person to any service in order of preference as determined by the Municipality from time to time in its Credit Control and Debt Collection Policy.

6. AVAILABILITY CHARGES FOR MUNICIPAL SERVICES

The Municipality may, in addition to the tariff of charges prescribed for municipal services, levy a monthly fixed charge, annual fixed charge or once-off fixed charge where municipal services are available, whether or not such services are consumed or not.

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 subsidised.
 - (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 subsidised 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 subsidised 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 may not qualify for subsidised services.
- 7.7. Subsidised 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 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 or a bank guaranteed cheque will be required based on the following criteria:

9.9.1 Property Owners

- a) In an effort to encourage application by property owners, such 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

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.

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, endeavour 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 provided 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 both the Ordinance No 25 of 1974 and the Rates Act 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 vacant. The owner shall be responsible for the account.

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

15. INCENTIVE SCHEME

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

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. 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 authorised agent may, if administratively possible, issue a duplicate account to a customer on request upon payment of a fee as prescribed in the Municipality's tariff of charges.
- 17.4. Accounts must be paid by no later than the last date of payment specified in such account.
- 17.5.** 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
- 17.6. Monthly rates shall be levied in eleven equal installments, and subject to change as determined by the Chief Financial Officer from time to time.

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- 17.7 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.
- 17.8 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.
- 17.9 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.
- 17.10. The Municipality shall post the rates assessment.

18. PAYMENT OPTIONS

- 18.1 The Municipality must endeavour 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 Chief Financial Officer 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 once the account is in arrears for more than sixty (60) days. The municipality shall annually assess the appropriate minimum amount below which it will not attach immovable property.
- 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.

1. LEGAL ACTION

21.1 Legal steps may 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
- Where the arrears are older than 45 days

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 Contact is made with the debtor before summons is issued to curb costs.

Guidelines, as tabulated, must be set and reviewed at least on an annual basis to ensure that they remain relevant:

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	Proceed to the issue of summons should the debtor appear to be of sufficient financial stature.

From R1000 onwards	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.
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- 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 Chief Financial Officer.
- 21.3 The Municipal Manager is authorized to write off bad debts in accordance with the provisions of Section 113 of Ordinance 25 of 1974 and on instructions of the Executive Committee.
- 21.4 The Municipality may enforce any other rights or exercise any power conferred on it by any other legislation.
- 21.5 The Municipality may through its own internal policy proceed to recover all outstanding debt and charge disbursements and **administration charges**.

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 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:-
- transferred to that account holder's current account;
 - 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

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 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 in terms of item 10, Schedule 2 of the Act.

24.2 The Municipality, shall liaise with the relevant staff and their departmental representatives and issue the necessary salary deduction instruction where appropriate after compliance with the Provisions of the Basic Conditions of Employment Act.

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.

The Municipality upon consultation with the Councillor, shall make appropriate arrangements to have the arrears paid.

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. ELECTRICITY

27.1 Disconnection orders are issued after final payment date. Where arrears are brought forward, the above may not apply.

27.2 No disconnection orders are produced unless the value of the arrears reaches a stipulated amount, as determined by the Chief Financial Officer.

27.3 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

27.4 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 instalment must be paid over a maximum period of 6 months. No further arrangements will be entertained forthwith. Re-connection of the electricity services is not guaranteed to be effected within the same day of payment.

- 27.5 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.
- 27.6 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, arrears are paid in full together with the current account.
- 27.7 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.
- 27.8 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.
- 27.9 The owner of the property must be notified if the tenant has been disconnected for the second time.

PREPAID METERS

Any person who applies for a prepaid meter shall ensure:

- a) All applications are processed at the enquiries
- b) The applicant is to obtain from the enquiry clerk the full balance of any amount due, owing and payable in respect of any electricity account
- c) The applicant shall pay the outstanding electricity account in full
- d) Once payment has been made, the enquiries clerk 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 department together with the purchase 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.

PART 6: ARREARS

INTEREST /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 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. Where an account rendered to a customer remains outstanding for more than 45 (forty- five) 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, 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 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.
 - (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.

- 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. 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 as set out in clause 27.1 above.
- 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 27.1. above, and
 - 30.5.2. Demand that a Deed of Suretyship be completed.
- 30.6. Electricity/Consolidated Bill: 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 over a maximum period of 6 months. No further arrangements will be entertained forthwith. Reconnection of the electricity services is not guaranteed to be effected on the same day of payment.
- 30.7. Rates Account/Sundry Debtors: Payment of arrears over a maximum period of 6 months, together with current account.

31. Arrangement to Pay arrears

- 31.1 The Municipality may, at its discretion, enter into a 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 The owner of a property must consent in writing to a Arrangement to Pay with the municipality and his tenant, whereby he acknowledges that he is jointly and severally liable for all arrears should his tenant default.
- 31.3 Re-connection and disconnection fees, where applicable, must be paid in full before any Credit Agreement can be entered into.
- 31.4 By entering into a Arrangement to Pay 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.
- 31.5 Arrangement to Pay 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.
- 31.6 Arrangement to Pay 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 trust's liability to the Municipality. Under no circumstances are agreements to be completed without such sureties.

31.7 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.

31.8 Arrangement to Pay 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.

31.9 Telephonic and SMS 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

32. DEBT ARRANGEMENT

32.1 The principle of limited vending to encourage customers with pre-determined amount of electricity per month, will apply. arrears to buy a

32.2 The principle that the monthly account must be paid, will apply.

32.3 Indigent Customers

- (a) All indigent customers with arrears will be put on the percentage block type and a percentage of payment received to purchase electricity will be allocated to arrears.
- (b) Indigent consumers will be required to pay their current monthly account before electricity can be purchased. The monthly account is the amount after the indigent subsidy has been deducted.
- (c) Indigent customers will be allowed to purchase an average monthly electricity consumption of such consumer with the maximum amount of electricity as determined from time to time.
- (d) The practical implication of the above is that when a customer wants to buy electricity the current monthly account, of which the amount will appear on the prepayment system, will have to be paid before electricity can be purchased. When electricity is purchased a percentage of the amount tendered will be allocated towards the arrears. The percentage may be determined by Council.
- (e) Monthly instalments not paid during a month will be accumulated on the

system and will have to be paid the next month before electricity is purchased.

33. 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) An arrangement must be made with the customer to pay a minimum monthly instalment, which will include monthly charges plus the repayment of arrears within a maximum period of four (4) months, and be allowed to purchase the average monthly electricity consumption of such consumer with a maximum amount of electricity as determined from time to time.
- (c) Customers who pay their arrear debt in full will have the total block removed and can proceed with buying electricity.

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.

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.
- 36.4. Customers have been categorised into the following income categories for arrangements purposes:-
 - Indigent (Gross household income of less than the monthly amount determined by Council)
 - Non indigent (Gross household income of more than the monthly amount determined by Council for indigent)
 - Non-domestic (excludes Government Departments)
 - Government Departments.

36.5 Arrangements by non indigent customers must include the following:

- Payment of the current monthly account.
- Payment of arrears for the current financial year over a maximum period of 12 months.

36.6 Arrangements by indigent customers:

- (a) Indigent customers must have their credit electricity meters converted to prepayment electricity meters
- (b) Arrangement for the payment of debt will be as determined for the payment of arrears on the prepayment system.
- (c) Income group as determined by Council from time to time over a maximum period of 36 months.

36.7.1 Debt arrangement – Prepayment system

36.7.2 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.

36.7.3 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.

36.7.4 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.

36.7.5 Minimum weekly instalment with weekly vend limit

Same as 25.12.3 above but weekly instalments are arrangements with weekly limits on the amount of electricity to be purchased.

36.7.6 Percentage Blocking

Every time the consumer makes a purchase a percentage of the amount tendered for the purchase of electricity is allocated towards arrear debt. This type of block is another method to collect arrear debt 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.

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 utilised 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 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

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 with immediate effect be disconnected.
- b) The occupier/owner/developer jointly and severally shall pay a penalty as per the tariff of charges.
- c) The occupier/owner/developer jointly and severally shall pay consumption charges.
- d) The occupier/owner/developer jointly and severally shall pay interest on the consumption
- e) No arrangements will be entered into.
- f) 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.

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.
- (c) 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 subsidised for indigent customers give preference to subsidising 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. An indigent customer may at any time request de-registration.

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 shall be required.
- 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 unauthorised services to: -
 - (a) Apply for such services in terms of Chapter 2 Part 1 of the Bylaws;
 - (b) Undertake such work, as may be necessary to ensure that the unauthorised 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 are 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 51.1 shall be liable for the cost associated with any consumption, notwithstanding any other actions which may be taken against such a person.

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 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 consumer and the municipality, to create a harmonious relationship between the consumer and the municipality so that consumers 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 consumers regarding the quality of service, performance of the municipality and the accuracy of the accounts.
- 64.4. To enable consumers 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 consumer 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 consumer 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 19.

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 19 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 consumers 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 consumer 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 consumer and the municipality, to create a harmonious relationship between the consumer and the municipality so that consumers 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 consumers regarding the quality of service, performance of the municipality and the accuracy of the accounts.

64.12.2 To enable consumers 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 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

CUSTOMER CARE AND MANAGEMENT

71. 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.

CHAPTER 11

GENERAL PROVISIONS

72. 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.

73. EXEMPTION

73.1. 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.

73.2. The municipality at any time after giving written notice of at least 30 days, withdraws any exemption given in terms of subsection (1).

74. AVAILABILITY OF BYLAWS

74.1. A copy of these bylaws shall be included in the Municipality Municipal Code as required in terms of legislation.

74.2. The municipality or its authorised agent shall take reasonable steps to inform customers of the contents of the credit control and debt collection bylaws.

74.3. 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.

74.4. 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.

75. 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.

76. 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 the date of promulgation of these bylaws.
- 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 Municipal Bylaws, and amendments thereto, relating to Credit control and debt collection made by the local authorities of Nkwazi/Zinkwazi Beach Transitional Local Council, KwaDukuza/ Stanger Transitional Local Council and Dolphin Coast Transitional Local Council, disestablished in terms of Provincial Notice No. 345 of 2000 in terms of section 12 of the Local Government: Municipal Structures Act, 1998: Establishment of Municipalities 9DC 29, KZ 291, KZ 292, KZ 293, KZ 294) as published on 19 September 2000, the Credit Control and Debt Collection Bylaws No. 65 of 2004, and the Bylaws Relating to Credit Control and Debt Collection dated 29 May 2008 are hereby repealed.

KWADUKUZA MUNICIPAL COUNCIL**RULES AND PROCEDURES**

The Kwa Dukuza Municipality hereby publishes the Rules and Procedures of the municipality in terms of section 162 of the Constitution of the Republic of South Africa which rules and procedures were accepted as By-laws in terms of section 156 of the constitution and section 15 (1) of the Municipal Systems Act, Act 32 of 2000. The provisions of the Constitution of the Republic of South Africa, the Structures Act, the Systems Act and any other applicable law are hereby incorporated as part of these rules.

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1. Definitions

In these rules, unless the context otherwise indicates, the following words and phrases shall have the following meanings ascribed to them: -

“**absent**” in relation to a meeting of the Council or a committee of the Council, means absent without having obtained leave from the meeting of the Council or the committee;

“amend a motion” means to make minor alternations or modifications to a motion without changing the original meaning or intention of the motion;

“budget” means the estimate of revenue and expenditure of the Council drawn up and presented by the executive committee in terms of Section 105 of the Ordinance 25 of 1974 read with Sections 10 G (3) AND (4) of the Local Government Transitional Act Second Amendment Act, 1996 and includes a proposal for the levy of rates, the increase or decrease of tariffs or the raising of a loan, which is made during the debate on such estimates or revenue and expenditure;

“Chairperson”, is the chairperson of the Council and any committee of the Council (refer also the “Speaker”);

“Code of Conduct” means the Code of Conduct for Councilors as provided for in Schedule 1 of the Systems Act [see Schedule 3 of the Rules];

“Constitution” means the Republic of South Africa Constitution, 1996;

“Council” means the KwaDukuza Municipal Council;

“Councilor” means a member of the KwaDukuza Municipal Council;

“Delegated authority”-

- (a) in relation to a delegation of a power or duty by the Council, means the Council; or
- (b) in relation to a sub-delegation of a power or duty by another political structure, or by a political office bearer, Councilor or staff member of the Council, means that political structure, political office bearer, Councilor or staff member;

“Division” means a detailed count of those for and against a motion;

“Executive Committee” means the Executive Committee established in terms of section 43 of the Structures Act;

“Ex officio”, with reference to the Mayor’s membership of a portfolio or other committee of the Council, means that, although the Mayor is a member of such a committee by virtue of his office or status, the Mayor shall not be a full voting member of such committee and shall not be included in the quorum of such committee. The Mayor or any other member, as an ex officio member of committees, shall not be subject to deduction of allowance for non-attendance at committee meetings.

“Manager” means a person appointed by the Council, after consultation with the Municipal Manager, and who is directly accountable to the Municipal Manager;

“Motion” means a formal proposal submitted to a meeting of the Council, or a committee, for consideration. When the motion is agreed to, or unopposed, it becomes a resolution.

“Municipal Manager” means the person appointed in terms of section 82 of the Structures Act and, when necessary, the person appointed to act on that person’s behalf;

“Person” includes a juristic person such as a registered company or a registered close corporation.

“Petition” means a written request for taking a stand or granting relief in a matter of public interest;

“Point of clarification” means an interpretation or explanation of some material part of a councilor’s speech which is, or might have been, misunderstood, unclear or vague;

“Point of order” means a question raised at a meeting for the purpose of calling attention to a departure from the Rules, an irregularity in the proceedings or conduct of the meeting or to a breach of some statutory requirement. Points or order may draw attention to any of the following:-

- (a) a quorum has not been maintained;
- (b) a motion or an amendment to a motion is not within the scope of the meeting;
- (c) there is no motion before the meeting;
- (d) there has been a violation of a statutory, constitutional or common law requirements;
- (e) any other irregularity in the proceedings.

“Political office bearer” means the Speaker, Mayor, Deputy Mayor or member of the Executive Committee as referred to in the Structures Act.

“Political structure” means the Council or other collective structure of the Council elected, designated or appointed in terms of a specific provision of the Structures Act.

“Portfolio committee” shall mean committees of Councilors to assist the Executive Committee in terms of section 80 of the Structures Act and shall include a joint committee of portfolio committees;

“Privilege and immunity” means-

- (1) that the Councilors have freedom of speech at meetings of the Council and its committees, subject to the Council's Rules; and
- (2) that Councilors are not liable to civil or criminal proceedings, arrest, imprisonment or damages for-
 - (i) anything that they have said in, produced before or submitted to the Council or any of its committees; or
 - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any of its committees.

“Quorum” means the majority of members of the Council required to be present at a meeting of the Council for the business to be considered at such meeting to be valid.

“Rule” or “Rules” means the Rules and Procedures of the KwaDukuza Municipal Council.

“Speaker” means a Councilor elected in terms of section 36 of the Structures Act to be the chairperson of the Council as envisaged in section 160(1)(b) of the Constitution.

“The Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)

“The System Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

2. Notice of Meetings

Notice of the date, time and place of every meeting of the Council and all its committees shall be served on every Councilor either personally or by leaving the same at his usual place or abode/business at least 48 hours before such meeting and shall also be displayed on designated public notice boards at the Municipal and Municipal suburb offices in the urban areas and at the tribal courts in the rural areas. Such notice shall be signed by the Municipal Manager. The accidental omission to serve on any Councilor such notice as is referred to above shall not affect the validity of any meeting. Each Councilor is required to supply to the Municipal Manager, at the commencement of the municipal term, an address where documents are to be delivered.

3. Election of Speaker, Mayor and Deputy Mayor

- (1) The election of the Speaker shall be regulated by section 36 and Schedule 3 of the Structures Act;
- (2) The election of the Mayor and the Deputy Mayor shall be regulated by section 48 and Schedule 3 of the Structures Act.

4. Functions of the Speaker

- (1) The Speaker shall-
 - (a) Preside at meetings of the Council;
 - (b) perform the duties and exercise any powers delegated to the Speaker in terms of the Structures Act;
 - (c) ensure that the Council meets at least once in every two months unless otherwise resolved by the Council;
 - (d) maintain order during meetings
 - (e) ensure compliance in the Council and Council committees with the Code of Conduct set out in Schedule 1 of the Systems Act [Schedule 3 of the Rules];
 - (f) ensure that Council meetings are conducted in accordance with the Rules of the council.
- (2) The Speaker shall be responsible for the correctness of the minutes of every Council meeting;
- (3) Minutes of the proceedings of a meeting of the council, or of a committee of the Council, signed by the Speaker, or the Chairperson of the committee, as the case may be or an extract from such minutes, certified as correct by the Speaker, or the Chairperson of the committee, or by an officer authorized by the Speaker, shall be received in evidence in a Court without further proof.
- (4) The Speaker shall
 - (1) Liaise closely with the Committee service responsible for the agenda and minutes of each Council meeting, in consultation with the Mayor and the Municipal Manager as and when necessary;
 - (2) Co-ordinate the arrangements regarding venues and dates for meetings and circulation of agendas and minutes of all the meetings of the Council and its committees;
 - (3) Liaise with Councilors, as well as members of the public and media who attend Council meetings, regarding proper conduct during such meetings to ensure compliance with the Council's rules and orders;

- (4) Ensure that the ward Councilors regularly have ward meetings and report thereon to the Council and that proportionally elected Councilors regularly report to their constituencies and report back to Council; and
- (5) Ensure that the provisions in respect of privileges and immunities of Councilors, as set out in section 8 of the Structures Act or any other applicable legislation, are adhered to.

5. Terms of office of Speaker

The Speaker shall, subject to section 38 of the Structures Act, hold office until such time as the next Council is declared elected.

6. Vacation of office of Speaker

The Speaker shall vacate office during a term if that person-

- (a) resigns as Speaker;
- (b) is removed from office;
- (c) ceases to be a Councilor.

7. Removal of Speaker from office

The Council may by resolution of a majority of the votes cast at a meeting, remove the Speaker from office, provided that prior notice of an intention to move a motion for the removal of the Speaker is given.

8. Acting Speakers

If the Speaker of the Council is absent or not available to perform the functions of Speaker or during a vacancy, the Council shall elect another councilor to act as Speaker.

9. Meetings of the Council

First Meeting of the Council during a Municipal Term:-

9.1 The Municipal Manager or, in the absence of the Municipal Manager, a person designated by the MEC for Local Government, shall call the first meeting of the Council within 14 days after the Council has been declared elected.

9.2 The Municipal Manager shall, at least 3 days before the first meetings of the Municipal Council, send to each Councilor at a place of residence or other place nominated by the Councilor concerned, a notice specifying the place, time and date of the first meeting and an agenda listing the business which it is proposed to transact thereat.

9.2.1 For the purpose of the first meeting of the Municipal Council the Municipal Manager shall act as the Chairperson of such a meeting

9.2.2 The Municipal Manager shall surrender the chair of the Council to the Speaker on his election.

9.3 The order of business on the agenda of the first meeting of the Municipal

Council Term shall, unless the Municipal Council by resolution otherwise determines, be as follows:

9.3.1 The election of the Speaker in accordance with the procedures set out in schedule 3 in the Municipal Structures Act;

9.3.2 The determination of the size of and the method for the election of Councilors to serve on the Executive committee;

9.3.3 The election of Councilors to serve on the Executive Committee in accordance with such method.

9.3.4 In the election of the Mayor from the members of the Executive Committee in accordance with the procedures set out in Schedule 3 to the Municipal Structures Act;

9.3.5 The election of the Deputy Mayor from the members of the Executive in accordance with the Procedures set out in Schedule 3 in the Municipal Structures Act;

9.3.6 The determination of the terms of reference of the committees to assist the Executive Committee;

9.3.7 The appointment of Councilors to serve on any committees to assist the Executive Committee;

9.3.8 Any other business

9.4 Subsequent meetings of the Municipal Council:-

9.4.1 The Speaker shall, subject to section 18 (2) of the Structures Act, decide when and where the Council meets, but if a majority of the Councilors requests the Speaker in writing to convene a Council meeting, the Speaker shall convene a meeting at a time set out in the request.

9.4.2 The Speaker shall, at least forty-eight hours before any ordinary meeting of the Council or as soon as is reasonably possible in the event of a special or urgent meeting of the Council, given written notice to all Councilors, specifying the date, time and venue of the meeting and the business to be transacted at such meeting.

9.4.3 In the event of a special or urgent meeting, when it is not possible to give notice in writing, the Speaker shall advise the Municipal Manager to contact Councilors, telephonically, at least twenty-four hours before the meeting, to notify them of the meeting.

9.4.4 The Municipal Manager shall give notice to the public, in a manner determined by the Council, of the time, date and venue of every ordinary meeting of the Council and any special or urgent meeting of the Council, except when time constraints make this impossible.

- 9.4.5 The Council shall adjourn for period/s in the municipal year during which ordinary meetings of the Municipal Council and its committees are not held. Such a decision must be taken in the first quarter of the municipal year.

10. Admission of public to meetings

- (1) Meetings of the Council and those of its committees shall be open to the public, including the media and the Council or such committee may not exclude the public, including the media, from a meeting, except when-
 - (a) it is reasonable to do so having regard to the nature of the business being transacted; and
 - (b) a by-law or a resolution of the Council specifying the circumstances in which the Council or such committee may close a meeting and which complies with paragraph (a), authorizes the Council or such committee to close the meeting to the public.
 - (c) matter involving private information regarding everyone's right to privacy as contemplated in section 14 (d) of the Constitution of the Republic of South Africa.
 - (d) Sensitive transactions where the Council is dealing with the private sector concerning a difficult or sensitive issue, where premature publicity relating to the transaction would jeopardize successful conclusion of the arrangements which it is sought to conclude.
 - (e) staff matters where in many instances, the discussion of matters pertaining to staff raises issues which are intensely personal to individual members of staff. Subjects such as the promotion of staff and the like can involve discussion of personalities, the competence or certain applicants for a post, and the general behavior and conduct of individual employees.
 - (f) Legal matters. All matters involving the receipt and consideration of legal advice to the Council.
- (2) The Council, or a committee of the Council, may not exclude the public, including the media, when considering or voting on any of the following matters:-
 - (a) a draft by-law tabled in the Council;
 - (b) a budget tabled in the Council;
 - (c) the Council's draft integrated development plan, or any amendment of the plan, tabled in the Council;
 - (d) the Council's draft performance management system, or any amendment of the system, tabled in the Council;
 - (e) the decision to enter into a service delivery agreement referred to in section 76 (b) of the Systems Act; or
 - (f) any other matter prescribed by regulation.
- (3) The Council's Executive Committee may, subject to section 20 (1) (a) of the Systems Act [see Rule 10 (1) (a)], close any or all of its meetings to the public, including the media.

11. Procedure at Council meetings

- (1) At the commencement of each Council meeting the Municipal Manager or his nominee shall ask all Councilors to stand at their places. The Speaker and the Mayor shall enter the Chamber and take their seats thereafter directing all present to be seated.
- (2) Any person, including a Councilor, an official or a member of the public who wishes to speak at a meeting of the council must observe the Rules and conform to the directions determined by the Speaker, who may impose any reasonable restrictions on any person wishing to speak.
- (3) A member of the public who wishes to speak at a Council meeting may only speak on those matters mentioned in Rule 10.(2) (a) to (f).
- (4) A member of the public who wishes to speak at a Council meeting shall obtain the permission of the Speaker to do so prior to the commencement of the meeting.
- (5) The Council's policy on PUBLIC PARTICIPATION (SCHEDULE 2), shall apply to members of the public wishing to speak at Council meetings.
- (6) The Council may resolve into Committee at any time during of its sittings by the passing of a resolution subject to section 20 of the Systems Act.
- (7) A motion to that effect shall not be debated and shall be seconded.
- (8) The Speaker, or the acting Speaker, shall act as Chairperson of the Council-in-committee.
- (9) The Council will resume on the passing of a resolution "That the Council now resume".
- (10) When the Council has resumed, a Councilor shall move "That the action of the Council-in-committee be confirmed". Such a motion shall not be debated and shall be seconded.
- (11) In the event that the Council resolves to close any of its sittings or that any of the proceedings at a Council meeting shall be heard in closed session, the Speaker shall order any non-members of the Council to withdraw from the Chamber until such time as such matters have been completed.
- (12) No council or committee may continue or commence without a Speaker or Chairperson presiding."

12. Attendance at Council/Committee Meetings and Attendance Register

- (1) A Councilor shall attend each meeting of the Council and of, a committee of which that Councilor is a member unless that Councilor is granted leave of absence from such meetings.
- (2) An application for leave of absence from a Council or committee meeting shall be made in writing and shall be signed by the Councilor applying for leave or the Councilor may fill in a prescribed form when applying for leave [see annexure A of Schedule 1].
 - (i) The application shall be submitted to the Office of the Speaker, who shall ensure that the application is tabled at the meeting from which leave of absence is being applied, or the application for leave may be tabled at the commencement of the meeting of the Council or the committee, as the case may be.
 - (ii) Councilors wishing to apply for leave of absence from any meeting/meetings of Council or any Committee of which he is a member (unless on the grounds of illness, forcemajure or the like) shall lodge an application in writing with the Municipal Manager not less than thirty (30) minutes prior to the commencement of the relevant meeting.
- (3) The Councilor applying for leave of absence shall furnish reasons for such request. If the Council or the committee is satisfied that the reasons furnished by the Councilor do not warrant a deduction for non-attendance, the Councilor shall be granted leave of absence from that meeting of the Council or the committee, which leave of absence shall not be unreasonably withheld.
- (4) In the event that the Council or the committee declines to grant a Councilor leave of absence from a Council or committee meeting or Special Meeting or Approved Workshop of Council or a Councilor fails to apply for leave of absence from such meetings, the Municipal Manager shall deduct from that Councilor's allowance, the sum of money specified in item (1) of Schedule 1 – Non Attendance At Council Meetings, of the Rules. The Councilor shall have the right to contest the decision by means of a written submission to the Municipal Manager.
- (5) A Councilor shall remain in attendance at a meeting of the Council or a committee for the entire duration of such a meeting unless the Councilor's attendance for a lesser period is agreed to by the Speaker or the Chairperson of the committee concerned, which consent shall not be unreasonably withheld.
- (6) A Councilor who fails to remain in attendance at a meeting of the council or a committee for the entire duration of the meeting, and leaves such meeting without having obtained the consent of the Speaker or the Chairperson of the committee, shall be liable to have the sum of money specified in item (1) Schedule 1 of the Rules, deducted from that Councilor's allowance.
- (7) When a Councilor is absent from three or more consecutive meetings of the Council or a committee which that Councilor is required to attend, the Speaker shall commence proceedings for the removal of that Councilor from office as a Councilor in accordance with the procedures specified in items (3) to (12) of Schedule 1 of the Rules.
- (8) If, during the period of any leave of absence granted to a member, he/she attends any meeting of Council or of a committee of which he/she is a member the unexpired portion of such leave of absence shall therefore be deemed to have been cancelled.
- (9) Notwithstanding anything to the contrary in these rules, whenever leave of absence from meetings of any committee is granted to any member necessitating the absence of such member from more than 3 consecutive meetings of such committee, Council upon the motion of any member may forthwith appoint a temporary member to fill the vacancy in such committee for the period of such leave.
- (10) An attendance register shall be provided in the Council chamber which register shall be signed by each member attending any meeting of the Council or a committee of the Council and shall be opened for public inspection.

13. Quorum

- (1) A majority of the Council shall constitute a quorum of the Council and shall be present at a meeting of the Council before a vote may be taken on any matter.
- (2) If a quorum is not present at the expiration of 15 minutes after the time appointed for the meeting, the Speaker may, with the consent of a majority of the members present, allow further time in order to enable a quorum to assemble, or the Speaker may adjourn the meeting to a date and time agreed upon by a majority of the members present.
- (3) If a meeting has to be adjourned to another date and time, any Councilor who is not present when the meeting is adjourned and who has not applied for leave, shall be liable to have the sum of money specified in item (1) of Schedule 1 of the Rules deducted from that Councilor's allowance.
- (4) The Quorum of the Committee shall be not less than fifty percent (disregarding fractions) plus one (50% (disregarding fractions) + 1) of current members (excluding the Mayor).

14. Continuation Meeting

- (1) When a meeting is adjourned, notice of a continuation meeting shall be served on members of Council and its committees.

- (2) No business shall be transacted at a continuation meeting except such as is specified in the notice of the meeting which was adjourned.

15. Business limited by notice of meeting

- (1) Subject to the provision of section 14 of the rules, and with exception of an urgent report to the executive committee, no business which is not specified in the notice of the meeting shall be transacted at the meeting.
- (2) A member may during a meeting propose that the provision of section 14. (2) be suspended to enable him to make a proposal reduced to writing and read out.
- (3) The proposal thus reduced to writing shall be signed by the proposer hence seconded and be handed in to the Speaker and shall be dealt with in terms of the provisions of these rules or order.

16. Minutes of meeting

- (1) If a copy of the minutes of a meeting has been served on every member in the manner as provided in section 2 of these Rules of Order, the minutes shall be taken as read with a view to confirmation.
- (2) No motion, proposal or discussion shall be allowed on the minutes, except as to their accuracy.
- (3) The minutes in relation to any item considered by the Council-in-Committee, shall be kept separately from other minutes of the Council, unless consideration of that item was finalized in Open Council and such minutes shall be approved by the Council-in-committee at its next meeting.

17. Delivery of reports of Executive Committee

A report of the Executive Committee, with the exception of a report accepted by the Chairperson as a matter of urgency, shall, for the purposes of a meeting, be served in the manner provided in Rule 2 of these Rules of order.

18. Reports of the Executive Committee

- (1) A report of the Executive Committee shall be submitted to an appropriate meeting of the Municipal Council and shall be divided into two parts, the first part containing the items on which the Committee has no delegated powers and the second part containing those items considered by the Executive Committee in respect of which the Committee delegated powers.
- (2) Unless an item is submitted for information only, every item contained in the first part of the report of the Executive Committee shall contain a recommendation which may be adopted by the Municipal Council.
- (3) The Mayor may, at any time with the consent of the Speaker, correct or withdraw any items on the agenda of a meeting of the Municipal Council, emanating from the Executive Committee; Provided that in the event of a withdrawal, such matter shall be referred back to the Executive Committee.
- (4) A report submitted by the Executive Committee for information only may not be debated, but shall only be noted.
- (5) The Chairperson of the Executive Committee (or a member called upon by him to do so), shall submit a report to the Executive Committee to a meeting by proposing that "the report be considered", which proposal shall be seconded and which proposal shall not be discussed.
- (6) Every recommendation in the first part of a report of the Executive Committee shall be deemed to have been a Motion moved by the Mayor and to have been seconded.
- (7) The Speaker shall put the recommendation contained in the first part of the report of the Executive Committee seriatim unless he considers it expedient to vary the order.
- (8) If an item is put in terms of section 18. (7) and it met by silence or the word "agreed", it shall be deemed to have been adopted unanimously and such recommendation shall become a resolution of Council.
- (9) The Mayor may, if he is of the opinion that the matter is one of urgency, submit a report on a matter to the Speaker who shall decide whether the report concerned should be placed on the agenda of the meeting of the Municipal Council, requested by the Mayor.
- (10) Where the Speaker agrees to a report being placed on the agenda of the meeting of the Municipal Council, copies of the report shall be laid on the table at the meeting concerned.

19. Consideration of the budget

- (1) Notwithstanding anything to the contrary in these Rules of Order, the following provisions shall apply when the budget is considered by the Council:-
- (a) A proposal which is designed to increase or decrease the estimated revenue or expenditure of the Council shall be put to the vote immediately after debate.
- (b) Once all the amendments have been dealt with and if any proposal contemplated in section 19. (a) has been accepted, the budget shall be deemed to have been amended by the proposal thus accepted, but the meeting shall be adjourned to a date and time determined by the Speaker, unless the Chairperson of the Executive Committee or a member of the Executive Committee authorized by him, decides that such adjournment is not necessary.
- (c) If it is decided in terms of section 19. (b) that the meeting need not be adjourned, the budget shall be deemed to have been amended in accordance with the proposal accepted in terms of section 19. (a).

(d) After an adjournment in terms of section 19. (b), the Executive Committee shall investigate the implications of every proposal accepted and shall report thereon to the Council upon resumption of the meeting.

(e) After the Executive Committee has reported in terms of section 19. (d) the Speaker shall-

- (i) permit debate on the proposals accepted; and
- (ii) put every such proposal to the vote again, and if such proposal is accepted, the budget shall be amended in accordance with that resolution.

20. Order of Business

(1) The order of business at every ordinary meeting of the Council shall be as follows:-

- (a) Opening and brief period of silence
- (b) Notice convening the meeting
- (c) Apologies and applications for leave from the current meeting of the Council
- (d) Official announcements by Speaker
- (e) Confirmation of minutes of previous meeting of the Council
- (f) Statutory appointments and elections
- (g) Questions of which notice has been given
- (h) Reports of Executive Committee and Portfolio Committees
- (i) Petitions
- (j) Notices of Motion

(2) The Speaker may, at any stage, bring forward any business which is on the agenda.

21. Decisions

(1) A majority of the members of the Council, as per the definition of "Quorum" in clause 13(4) above, shall be present before a vote may be taken on any matter.

(2) Question concerning the following matters are determined by a decision taken by the Council with a supporting vote of a majority of its members:-

- (a) The passing of by-laws;
- (b) The approval of budgets
- (c) The imposition of rates and taxes, levies and duties; and
- (d) The raising of loans

(3) All other questions before the Council or before any of its committees are decided by a majority of the votes cast.

(4) Except where the law prescribes a secret ballot, or the Council otherwise resolves by resolution, voting at a meeting shall be by a show of hands of those members entitled to vote.

(5) A member of a meeting entitled to vote, may request that his vote be recorded against a decision of that meeting.

(6) Whenever a vote is taken at a meeting, the votes of a members shall be recorded by the Speaker who shall declare the result of the voting.

(7) The Speaker shall thereafter declare the decision of the meeting.

(8) During the taking of a vote, no member shall enter or leave the Council chamber or committee room.

(9) If on any question there is an equality of votes; the Councilor presiding (the Speaker) shall exercise a casting vote in addition to that Councilor's vote as a Councilor.

(10) Before the Council takes a decision on any of the following matters it shall first require the Executive Committee to submit to it a report and recommendation on the matter:-

- (a) the passing of by-laws;
- (b) the approval of budgets;
- (c) the imposition of rates and taxes, levies and duties;
- (d) the raising of loans;
- (e) the approval of an integrated development plan for the Municipality and any amendment to that plan;
- (f) the appointment and conditions of service of the Municipality Manager and a head of department of the Council.

22. Conduct of Councilor's, officials and other persons and Rules of Debate

(1) At the commencement of a meeting, all cellular telephones shall be switched off.

(2) During the meeting no Councilor, official or other person shall converse aloud.

(3) No Councilor shall interrupt another Councilor while speaking, except to call attention:-

- (a) to a point of order;
- (b) to a point of clarification;
- (c) to a question of privilege as provided for in section 28 of the Structures Act;
- (d) to the presence of non-Councilors, where the meeting is a closed meeting.

(4) Except for the Chairperson of the Executive Committee, no Councilor shall be permitted to speak more than once to any item on the agenda and not for longer than three (3) minutes; provided that the Council may, upon a motion, duly seconded, suspend this rule. Such a motion shall be put to the meeting without debate.

- (5) The Chairperson of the Executive Committee, or any other member of the Executive Committee, as agreed, shall introduce reports of the Executive Committee and all members of the Executive Committee shall have a right of reply on any items included in those reports.
- (6) When the Speaker rises or calls for order, any Councilor then speaking or offering to speak shall stop speaking and shall allow the Speaker to be heard without interruption.
- (7) The Speaker, after having called attention to the conduct of a Councilor or official who persists in irrelevance or repetition of arguments, may direct the Councilor or official to stop speaking.
- (8) If the Speaker is of the opinion that a Councilor is deliberately contravening a provision of the Rules, or that a Councilor is in contempt of, or is disregarding, the authority of the Chair, or that a Councilor's conduct is grossly disorderly, the Speaker may order the Councilor to withdraw immediately from the Chamber for the remainder of the meeting or for such period of time as the Speaker may deem appropriate.
- (9) If a member refuses to comply with a direction in terms of section 22. (8), the Speaker may direct an official to remove the member or to cause his removal and to take steps to prevent his return to the meeting.
- (10) The Council may exclude/suspend from meetings of the Council for such period as it may determine, a member who so misconducted him/herself provided that such suspension/exclusion shall not equal or exceed such period as would result in the vacation of such member's office in terms of section 4. (2) of the Code of Conduct for Councilor's.
- (11) A Councilor is prohibited from leaving a Council meeting or walking out merely to possibly frustrate a vote on a particular item on the Agenda. The practice of "walk-outs" is prohibited.
- (12) A Councilor may record such discontentment by ensuring that the discontentment is recorded in the minutes.

23. Voting and Divisions

- (1) When the Council is required to vote on a motion or a proposal, those Councilor's in favour of the motion or proposal and thereafter, those against it shall be called upon by the Speaker to indicate their vote by a show of hands. The Speaker shall then declare the motion carried or lost, as the case may be.
- (2) Immediately after any motion has been put to the meeting for the purpose of being voted upon or immediately after a decision has been declared by the Speaker, any Councilor may demand a division of the Council and upon such demand for a division being seconded, the Speaker shall forthwith declare that a division shall take place. No discussion shall take place upon any demand for a division.
- (3) Councilors shall note on every division at which they are present and no Councilor shall leave or re-enter the Chamber while the Speaker is putting the question to the vote.
- (4) Whenever there is a division of the Council the Speaker shall immediately rule that the votes of the Councilors present be recorded by the Municipal Manager as "for" or "against" the motion then before the Council.
- (5) The Speaker shall call upon those Councilors present to record in writing on the ballot paper provided for such purpose, their names and whether they are in favour of, or against, the motion in question. The Municipal Manager shall then count those Councilors in favour of the motion and those against.
- (6) The Municipal Manager shall cause to be recorded in the minutes, the names of the Councilors presented and whether they voted for or against the motion.

24. Notices of motion

- (1) Except as provided for in Rule 20, no subject shall be brought before the Council unless upon notice of motion.
- (2) Any Councilor may submit a motion on a matter which that Councilor would like discussed.
- (3) A notice of motion shall:-
 - (a) be in writing
 - (b) be signed by the member giving notice;
 - (c) deal with one subject only;
 - (d) relate to some matter affecting the Council.
- (4) No member shall have more than two notices of motion on the agenda at the same time.
- (5) Every notice of motion shall be delivered to the Municipal Manager.
- (6) All notices of motion shall be dated and numbered as received and shall be entered by the Municipal Manager on the agenda in the order in which they are received, except that notice of an amendment to a motion shall be entered immediately after such notice of motion, irrespective of the time at which the amendment to the motion shall have been received.
- (7) (1) Prior to including a notice of motion on the Council agenda, the Speaker shall ensure that the notice of motion complies with the requirements of Rule 24. (3).
 - (2) The Speaker shall reject any motion:-
 - (a) which, in the Speaker's opinion, does not comply with Rule 24.(3);
 - (b) in respect of which the Council does not have jurisdiction;
 - (c) in respect of which a decision by a judicial or quasi-judicial body is pending;
 - (d) which, if adopted, would be contrary to any law or incapable of execution;

- (e) in regard to any matter falling within the Terms of Reference of a Committee unless such motion has previously been considered by that Committee or unless it is in the form of a reference to that committee for consideration and report.
- (8) A notice of motion or an amendment to a notice of motion, shall specify in full the proposed motion, shall specify the date at which it is to be introduced and shall be received by the Municipal Manager at least five clear days before such a date.
- (9) A motion shall lapse if the member who submitted it is not present at the meeting when such motion is scheduled for debate.
- (10) A motion or amendment may be withdrawn by the mover without the consent of the seconder or the Council in which event it shall fall away.
- (11) In dealing with motions, the Speaker shall ascertain which motions are unopposed and these shall be passed without debate.
- (12) Those motions, which are opposed, shall be dealt with in the order in which they appear on the agenda.
- (13) No motion or amendment shall be discussed or put to the Council until it is seconded.
- (14) When a motion is under debate at a meeting of the Council, no further proposal shall be received except to amend the motion.
- (15) The mover of a motion may speak to the motion and shall have the right of reply but the reply shall be confined to answering previous speakers and shall not introduce any new matter into the debate.

25. Amended motions

- (1) An amendment which is moved shall be relevant to and shall not be a contradiction of, the motion on which it is moved.
- (2) The Speaker may call upon any mover of an amendment to commit the proposed motion to writing and to sign it.
- (3) Every amendment to a motion shall be read to the members present before being moved or put to the vote.
- (4) No more than two amendments to any motion may be moved and the second amendment shall be disposed of first.
- (5) If an amendment is carried, the amended motion shall take the place of the original motion and shall become the motion upon which any further amendments may be moved.
- (6) The right of reply shall not extend to the mover of an amendment to a motion.

26. Petitions

- (1) A petition may be submitted by a member in the course of a meeting and he may not mention or divulge the contents or the title thereof when it is submitted.
- (2) The petition as contemplated as in subsection (1) shall be referred to the Executive Committee for a report to Council.

27. Deputations

- (1) A deputation desiring an interview with the Council or a Committee shall submit a memorandum to the Municipal Manager, in which it sets out the representations it wishes to make.
- (2) The Municipal Manager shall submit the memorandum contemplated in subsection (1) to the relevant Committee, which may receive the deputation and deal with the matter raised in the memorandum if the necessary powers have been delegated to it.
- (3) A deputation shall not exceed six persons in number and interview contemplated in this clause, only one person shall speak on behalf of the deputation, except when a member puts a question in which case any person belonging to the deputation, may reply to such question.
- (4) The matter shall not be further considered until the deputation has withdrawn.

28. Establishment of the Executive Committee

- (1) The Council shall establish an Executive Committee consisting of up to a number of not exceeding 10 Councillors as appointed by the Council.
- (2) The name of the Committee shall be the Executive Committee of the KwaDukuza Municipal Council.
- (3) The Committee shall be elected from among the members of the Council at a meeting, which shall be held within 14 days of the Council's election.
- (4) The Committee shall be composed in such a way that parties and interests represented in the Council are represented in the Executive Committee in substantially the same proportion as they are represented in the Council.
- (5) The members of the Executive Committee shall remain in office, subject to section 47 of the Structures Act until such times as the next Council is declared elected.
- (6) A member of the Executive Committee shall vacate office during a term if the member:-
 - (a) resigns as a member of the committee;
 - (b) is removed from office as a member of the committee in terms of section 53 of the Structures Act;
 - (c) ceases to be a Councillor.

- (7) A vacancy in the Executive Committee shall be filled in accordance with section 53 of the Structures Act.
- (8) The Mayor or, in the absence of the Mayor, the Deputy Mayor, shall preside at meeting of the Committee.
- (9) If both the Mayor and the Deputy Mayor are absent from a meeting and there is a quorum, the members present shall elect another member to preside at the meeting.

29. Date and Time of meetings

The Mayor shall decide when and where the Executive Committee shall meet but if a majority of the members of the Committee requests the Mayor, in writing, to convene a meeting, the Mayor shall convene such a meeting at the time set out in the request.

30. Procedures of the Executive Committee

- (1) The Committee, by resolution taken with a supporting vote of a majority of its members, may determine its own procedures, subject to any directions and the Rules of the Council.
- (2) Recommendations of each portfolio committee shall be presented to the Executive Committee for discussion by the Chairperson of the portfolio committee.
- (3) All resolutions of the Executive Committee shall be moved and seconded.
- (4) Councilors may speak more than once on any item at meetings of the Executive Committee.
- (5) All decisions taken by the Executive Committee shall be reported to the Council.
- (6) Decisions and resolutions of the Committee shall be presented to the Council by the Chairperson of the Committee.

31. Quorum and Decisions

- (1) The Quorum of the Committee shall be not less than fifty percent (disregarding fractions) plus one (50% (disregarding fractions) + 1) of current members, and no portfolio committee shall transact any business without a quorum."
- (2) Any question before the Committee shall be decided if there is agreement among at least the majority of the members present at the meeting.
- (3) If on any question before the meeting there is an equality of votes, the member presiding shall exercise a casting vote in addition to that members vote as a member.
- (4) All members of the Executive Committee should accept and support decisions taken by the Executive Committee. If in any context an individual member of the Executive Committee feels it necessary to point out that he or she voted against and/or disagrees with a particular decision taken by the Executive Committee, he or she must nevertheless not call into question the status or the validity of that decision.

32. Functions of the Executive Committee

The functions and powers of the Executive Committee are set out in section 44 of the Local Government: Municipal Structures Act No. 117 of 1998 and are quoted under Schedule 4 of these Rules.

33. Review of Executive Committee decisions

- (1) The Council, in accordance with procedures set out in its Rules, may, or at the request in writing of at least one quarter of the Councilors, shall, review any decision taken by the Committee in consequence to a delegation or instruction and either confirm, vary or revoke the decision, subject to any rights that may have accrued to any person.
- (2) The Council may require the Committee to review any decision taken in consequence of any delegation or instruction.
- (3) If, after having made a decision on a matter, the Committee wishes the Council to review that decision it shall make a recommendation to the Council that such decision be reviewed, whereupon the Council may review such decision and either confirm, vary or revoke the decision.
- (4) No recommendation for the review of a decision taken by the Committee may be made to the Council where the decision taken by the Committee has resulted in the accrual of any rights to any person.
- (5) The council shall review a decision taken by the Execution committee if at least one quarter of the Councilors request the Council, in writing, to review such decision in the circumstances envisaged in Rule 33. (1).
- (6) The written request, signed by the requisite number of Councilors, shall cite the resolution to be reviewed and should be accompanied by a detailed motivation for the review of the decision.
- (7) The written request shall be delivered to the Municipal Manager on or before 13:00 on the day proceeding the distribution date of the Council agenda.
- (8) A decision by the Council to review a decision of the Executive committee or to confirm, vary or revoke a decision of the Executive Committee shall be decided by a majority of the votes cast at the meeting on the Council.

34. Council business pending appointment of committees and whilst the Council is in recess

- (1) The powers governing arrangements during recess shall only be applicable in extraordinary cases and shall be exercised in conformity with any applicable policy of the Council and shall not be exercised in a way which shall bind the Council to any new policy.

- (2) Subject to the provisions of (1) above and provided that it will not be in the interests of the Council to delay a decision until its next meeting, or the next meeting of any existing portfolio committee having jurisdiction under its terms of reference, a final decision binding on the Council may be made in any matter by the following persons in the following circumstances:-
 - (a) When the Council has appointed committees but is in recess, by the Mayor and Chairperson of the portfolio committee having jurisdiction under its terms of reference.
 - (b) By the Mayor or in the absence of the Mayor, by the Deputy Mayor and the Chairperson or, in the absence of the Chairperson, by the Pro-temp Chairperson, of the portfolio committee having jurisdiction under its terms of reference.
- (3) The arrangements referred to in 34. (2) (a) and (b) above shall be confirmed at the next meeting of the Executive Committee.

35. Rules, functions and delegations of portfolio and other committees of the KwaDukuza Municipal Council

(Note: The Rules and Procedures of the KwaDukuza Municipal Council shall apply to the portfolio and other committees of the Council unless otherwise decided by the said committees)

Establishment

- (1) A municipal council may-
 - (a) establish one or more committee/s necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers;
 - (b) appoint the members of such a committee from among its members; and
 - (c) dissolve a committee at any time.
- (2) The municipal council-
 - (a) must determine the functions of a committee;
 - (b) may delegate duties and powers to it;
 - (c) must appoint the Chairperson;
 - (d) may authorize a committee to co-opt advisory members who are not members of the members of the council within the limits determined by the council;
 - (e) may remove a member of a committee at any time; and
 - (f) may determine a committees procedure.

36. Committees to assist the Executive Committee

- (1) If a municipal council has an executive committee, it may appoint in terms of section 79 of the Structures Act, committees of Councilors to assist the executive committee.
- (2) Such committees may not in number exceed the number of members of the executive committee.
- (3) The executive committee-
 - (a) appoints a chairperson for each committee from the executive committee;
 - (b) may delegate any powers and duties of the Executive committee to the committee.
 - (c) is not divested of the responsibility concerning the exercise of the power or the performance of the duty and
 - (d) may vary or revoke any decision taken by a committee, subject to any vested rights.
- (4) Such a committee must report to the executive committee in accordance with the directions of the executive committee.

37. Committee structure

There shall be an executive committee and the following Portfolio Committees shall be established in terms of Section 79 and 80 of the Local Government: Municipal Structures Act :-

- (1) Finance Portfolio Committee
- (2) Local Public Administration and Human Resources Portfolio Committee;
- (3) Amenities, Safety and Security Portfolio Committee;
- (4) Infrastructure and Technical Portfolio Committee;
- (5) Economic Development, Planning, Community Development and Housing Portfolio Committee;

38. Membership

- (1) Members of the portfolio committees shall be appointed by the Council in accordance with Rule 37. of the Rules
- (2) The Mayor shall be a member of all portfolio committees, ex officio.
- (3) In the absence of the Mayor, the Deputy Mayor shall take the place of the Mayor as ex officio member of portfolio committee, with the exception of any portfolio committee of which the Deputy mayor is the Chairperson.

39. Chairpersons and alternate chairpersons

- (1) The council shall elect the chairperson and alternate chairperson of each portfolio committee.

- (2) In the absence of both the Chairperson and the acting chairperson those members of the committee present shall elect an acting chairperson from amongst their number, provided that should the Mayor or Deputy Mayor be present, and so wish, the Mayor or Deputy Mayor may take the chair.
- (3) The speaker shall chair every joint meeting of portfolio committees, provided that –
 - (a) The speaker may delegate the right to chair the meeting to any of the chairpersons of the committees concerned, and
 - (b) In the absence of the speaker, one of the chairpersons of the committees in question shall chair the meeting.
- (4) In the absence of agreement as to which of the two or more chairpersons should chair the meeting, the matter shall be decided by a majority of the members of the relevant committees present.
- (5) The Chairperson shall maintain order during meetings of the committee, ensure compliance with the Code of Conduct set out in Schedule 3 of the rules and ensure that meetings are conducted in accordance with the Rules of the Council to the extent that such Rules are applicable to committees of the Council.

40. Quorum

- (1) The Quorum of the committee shall not be less than fifty percent (disregarding fractions) plus one (50% (disregarding fractions) + 1 of current members (excluding the Mayor), and no portfolio committee shall transact any business without a quorum.
- (2) In the case of a joint meeting of portfolio committees the quorum shall be a majority of the members of each of the portfolio committees which constitute the joint meeting.
- (3) In the event that there is no quorum at the commencement of a meeting of a portfolio committee or a joint meeting of portfolio committee those members of the meeting who are present shall wait for a period of ten minutes. There after, if there is still no quorum, the meeting shall be abandoned, unless the members present unanimously allow further time in order to enable a quorum to be constituted.
- (4) If a meeting has to be adjourned to another date and time, any Councilor who is not present when the meeting is adjourned and who has not applied for leave, shall be liable to have the sum of money specified in item (1) of Schedule 1 of the Rules deducted from that Councilors allowance.

41. Certain delegations restricted to Executive Committee

- (1) The following powers may, within a policy framework determined by the Municipal Council, be delegate to the Executive Committee only:-
 - (a) Decisions to expropriate immovable property or rights in or to immovable property; and
 - (b) The determination or alteration of the remuneration, benefits or other conditions of service of the Municipal Manager or Managers directly responsible to the Municipal Manager.
- (2) The council may only delegate to the Executive Committee or chief financial officer, decisions to make investments on behalf of the Municipality within a policy framework determined by the Minister of Finance.

42. Delegated Plenary Power

- (1) Except in the case of the Executive Committee, a delegated plenary power shall not include the right to make a decision binding the council to any new policy and the chairperson of the Executive committee may require that any matter on the agenda of any portfolio committee which in his opinion anticipates a new council policy, shall not be the subject of a final decision by that committee but shall be referred to the Executive Committee with a report and recommendation of the portfolio committee in question.
- (2) Every decision made in terms of a delegated plenary power shall be made in the name of the Council and shall be binding on the Council.
- (3) Other than those matters expressly reserved to the Council, referred to in section 59. (1) (A) of the Systems act or delegated as plenary powers to other portfolio committees, and subject to Rules 42. (6), the Executive Committee shall have delegated plenary powers to exercise every right, duty and function of the council and no other portfolio committee shall have authority to exercise any right, duty or function of the Council except upon express delegation to it by the council or in terms of Rules 42.(5) of the Rules.
- (4) The Executive Committee may not delegate to any other portfolio committee of itself, the right to make any final decision in respect of any right, duty or function with which it is vested, provided that it may delegate a power to any other portfolio committee, or a sub committee of itself, to consider and make a report and recommendations to it concerning any such right, duty or function, and it alone may make delegations to officials in terms of Rule 43.
- (5) The Executive Committee shall not be bound to make any final decision in respect of any matter within its plenary powers, or in respect of any recommendation duly made to it by any other portfolio committee or any matter referred to it in terms of Rule 42. (1), but may instead make a report and recommendation thereon to the Council.
- (6) The plenary powers of the Executive Committee notwithstanding, it shall not have authority to make any decision which will have the result of incurring any expenditure in any matter which is not expressly provided for in the councils approved budget, or which shall exceed that provided for any matter in such budget, provided it may approve the reallocation of funds from one approved vote to another or to a new vote provided the total amount of the votes in question is not thereby exceeded.

- (7) The plenary powers of a portfolio committee notwithstanding, no portfolio committee shall have authority to make any decision which will have the result of incurring any expenditure in any matter which is not expressly provided for in the Councils approved budget, or which shall exceed the sum provided for in any vote approved in such budget.
- (8) Where a portfolio committee other than the Executive Committee considers it necessary to appoint a sub-committee, such committee shall make the necessary recommendation to the Executive Committee and the Executive Committee shall decide whether or not such sub-committee shall be appointed.
- (9) In respect of the Executive Committee, before appointing or, in the case of other portfolio committees, recommending to the Executive committee that a sub-committee be appointed, the committee concerned shall confirm with the Municipal Managers representative that no other sub-committee has already been set up with the same or similar terms of reference.
- (10) In respect of the Executive Committee, before appointing or, in the case of other portfolio committees, before recommending to the Executive Committee that sub-committee be appointed, the portfolio committee concerned shall define the terms of reference, the members together with the convener, the quorum and the time period by which such sub-committee shall report with recommendations to the portfolio committee concerned.
- (11) In appointing a sub-committee, the Executive Committee shall nominate a member of the sub-committee as chairperson thereof, or in the case of a recommendation from a portfolio committee on the establishment of a sub-committee, such recommendation shall include a recommendation on the nomination of a member of the sub-committee as Chairperson of the sub-committee.
- (12) In the event that a portfolio committee fails to make a final decision in respect of any matter within its terms of reference, or unreasonably delays in making such a final decision the committee shall, upon the recommendation of the Municipal Manager or his representative, in the first instance refer such matter to the Executive Committee which may make a final decision in the matter.
- (13) In any case where the Municipal Manager or his representative has any doubt as to whether a matter before a portfolio committee is properly within its terms of reference, the Municipal Manager or his representative may refer such matter to the Executive Committee for direction as to which committee is to deal with the matter, whether before or after the committee has made a decision. If such referral is made after the portfolio committee has made a decision, such decision shall not take effect unless and until it is approved by the Executive Committee.
- (14) The Executive Committee may decline to approve any such decision and remit the matter for a final decision to such portfolio committee as it considers having jurisdiction under its terms of reference.
- (15) The rules relating to notices of motion under Rule 24 of the Rules shall apply to portfolio committees, modified as necessary for the purposes of such committees.

43. Delegation to Officials

Every existing delegation of powers to an official in any matter falling generally within the terms of reference of any portfolio committee shall continue to exercise by such official unless revoked or varied by the Executive Committee, provided that in the case of any such appeal against a decision of an official made under such delegated powers, or in the event of any official declining to exercise such delegated powers, such portfolio committee may itself make a final decision provided further that the portfolio committee concerned has the delegated powers to make such a decision.

SCHEDULE 1

NON-ATTENDANCE AT COUNCIL MEETINGS:

STANDING PROCEDURE FOR THE DEDUCTION OF MONIES AND REMOVAL FROM OFFICE

Formulated in terms of item 4 of SCHEDULE 3 OF THE Local Government: Municipal Structures Act, 1998)

Following is an extract from Schedule 1 of the Code of Conduct of the Local Government: Municipal Systems Act, 2000:

"Attendance at meetings

- (3) A Councillor must attend each meeting of the municipal council and of a committee of which that Councillor is a member, except when –
 - (a) leave of absence is granted in terms of an applicable law or as determined by the Rules and orders of the Council; or
 - (b) that Councillor is required in terms of this Code to withdraw from the meeting.

Sanctions for non-attendance at meetings

- (4) (1) a Municipal Council may impose a fine as determined by the standing rules and orders of the municipal council on a Councillor for:
 - (a) Not attending a meeting which that councillor is required to attend in terms of item 3; or
 - (b) Failing to remain in attendance at such a meeting.
- (2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a Councillor.
- (3) Proceedings for the imposition of a fine or the removal of a Councillor must be conducted in accordance with a uniform standing procedure which each council must adopt for the purpose of this item. The uniform standing procedure must comply with the rules of natural justice."

Deduction of monies for non- attendance at Council and committee meetings or for failing to remain in attendance at such meetings

- (1) When the Council or a committee declines to grant leave of absence to a Councilor for failing to attend a meeting of the Council or a committee, or a Councilor fails to apply for leave of absence from such meetings, the sum of R300 shall be deducted from that Councilors allowance.
- (2) When a Councilor fails to remain in attendance at a Council or committee meeting for the duration of the meeting and leaves such meeting without having obtained the consent of the Council or the committee, the sum of R300 shall be deducted from that Councilors allowance.

Procedure for removal of a councilor from office

- (1) Upon becoming aware that a Councilor has been absent from three or more consecutive meetings of the Council or from three or more consecutive meetings of a committee which that Councilor is required to attend, the Speaker shall commence proceedings for the removal of that Councilor from office as a Councilor.
- (2) For the purpose of (1) above, the Councilor concerned shall be required to attend a hearing before a committee established by the Council for that purpose and which shall be chaired by the Speaker.
- (3) The Speaker shall give notice of the hearing to the Councilor.
- (4) The notice shall –
 - (a) Be in writing;
 - (b) Inform the Councilor –
 - (i) Of the date, time and venue of the hearing;
 - (ii) Of the circumstances upon which the allegations are founded;
 - (iii) That no legal representative shall be permitted;
 - (iv) That the Councilor has the right to give evidence including the right to call witnesses;
 - (v) That the Councilor may put questions to any witness called by the committee;
 - (vi) That the decision of the committee is final.
- (5) In the event that the Councilor fails to attend the hearing after delivery of the notice, the committee shall commence the proceedings in the absence of the Councilor.
- (6) At the hearing –
 - (a) the Municipal Manager, or the person appointed by the Municipal Manager for the purposes of the hearing, shall produce the necessary evidence to establish that the Councilor –
 - (i) has been absent from three or more consecutive meetings of the council; or
 - (ii) Has been absent from three or more consecutive meetings of a committee which that Councilor is required to attend.
 - (b) The Councilor shall have the right to put questions to the witnesses called b by the Municipal Manager;
 - (c) The committee shall have the right to put questions to the witnesses called by the Municipal Manager for the purposes of clarifying any issues.
 - (d) The Councilor shall have the right to call other witnesses in support of the Councilors case;
 - (e) The Municipal Manager and the Councilor concerned may address the committee after all the evidence has been heard and before the committee makes a decision.
- (7) If majority of the members of the committee find that, on a balance of probabilities –
 - (a) The Councilor has been absent from three or more consecutive meetings of the Council; or
 - (b) The Council has been absent from three or more consecutive meetings of a committee which that Councilor is required to attend; the Councilor concerned shall be removed from office as a Councilor.
- (8) The committee shall inform the Councilor of its decision, in writing.
- (9) The Municipal Manager shall report the decision of the committee to the Executive Committee.

ANNEXURE A

Cllr. _____
The Municipal Manager
KwaDukuza Municipality KZ 292
P.O.Box 72
STANGER
4450

Sir,

APPLICATION FOR OFFICIAL LEAVE OF ABSENCE:

I hereby wish to apply for official leave of absence as follows: -

Period: _____ to _____
_____ to _____

Committee: _____

Exco : _____

Council : _____

Reason : _____

Yours faithfully

Cllr. _____

Appl. No. _____	Date: // _____	Captured: // _____
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ANNEXURE B**APPLICATION FOR OFFICIAL LEAVE OF ABSENCE:**

Your letter of application dated _____ has been approved as follows:-

Period: _____ to _____
_____ to _____

Committee: _____

Exco: _____

Council : _____

Yours faithfully

MUNICIPAL MANAGER

KWADUKUZA MUNICIPALITY KZ 292.

FOR OFFICIAL USE

Report To	
Date	
Captured	

SCHEDULE 2**PUBLIC PARTICIPATION****COUNCIL MEETINGS**

1. A member of the public who wishes to speak at a council meeting may only speak on those matters specified in Rule 10. (2) (a) to (f) of the Rules.
2. When speaking at a Council meeting, a member of the public shall comply with any directions or orders given by the Speaker.
3. A member of the public –
 - (a) May be permitted to address the Council for a maximum of three minutes, or for such further period of time as the speaker may allow;
 - (b) Shall not engage in personal attacks on any person while addressing the Council;
 - (c) Shall not use abusive or vulgar language while addressing the Council.

EXECUTIVE AND PORTFOLIO COMMITTEE MEETINGS

1. Executive and Portfolio Committee meetings are open to the public.
2. A member of the public who wishes to speak at a meeting of Council shall obtain the permission of the Chairperson of that committee to do so prior to the commencement of the meeting.
3. Members of the public are permitted to address these committees but are restricted to speaking on items which are contained in the agendas of the committees which they wish to address.

Cllr.

Sir/Madam,

Cllr.

Sir/Madam,

APPLICATION FOR OFFICIAL LEAVE OF ABSENCE:

Your letter of application dated _____ has been approved as follows:-

Period: _____ to _____
_____ to _____

Committee: _____

Exco: _____

Council : _____

Yours faithfully

MUNICIPAL MANAGER
KWADUKUZA MUNICIPALITY KZ 292.

FOR OFFICIAL USE

Report To	
Date	
Captured	

**SCHEDULE 2
PUBLIC PARTICIPATION
COUNCIL MEETINGS**

1. A member of the public who wishes to speak at a council meeting may only speak on those matters specified in Rule 10. (2) (a) to (f) of the Rules.
2. When speaking at a Council meeting, a member of the public shall comply with any directions or orders given by the Speaker.
3. A member of the public –
 - (a) May be permitted to address the Council for a maximum of three minutes, or for such further period of time as the speaker may allow;
 - (b) Shall not engage in personal attacks on any person while addressing the Council;
 - (c) Shall not use abusive or vulgar language while addressing the Council.

EXECUTIVE AND PORTFOLIO COMMITTEE MEETINGS

1. Executive and Portfolio Committee meetings are open to the public.
2. A member of the public who wishes to speak at a meeting of Council shall obtain the permission of the Chairperson of that committee to do so prior to the commencement of the meeting.
3. Members of the public are permitted to address these committees but are restricted to speaking on items which are contained in the agendas of the committees which they wish to address.

4. When speaking at a meeting a member of the public shall comply with any directions or orders given by the Chairperson.
5. Members of the public shall furnish their names and specify the numbers of the item on the agenda in respect of which they wish to address the committee.
6. Those members of the public who address the committee –
 - (a) May only speak for a maximum of three minutes;
 - (b) May only speak on the item specified by them;
 - (c) May not engage in personal attacks on any person;
 - (d) May not use abusive or vulgar language while addressing the Committee.

SCHEDULE 3

CODE OF CONDUCT FOR COUNCILORS

Preamble

Councilors are elected to represent local communities on municipal councils to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, and sustainably with the means of the Municipality. In fulfilling this role Councilors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the municipality in terms of established indicators. In order to ensure that Councilors fulfill their obligations to their communities, and support the achievement by the municipality of its objectives set out in section 19 of the Municipal Structures Act, the following code of conduct is established.

1. Definitions

In this schedule "partner" means a person who permanently lives with another person in a manner as if married.

2. General conduct of Councilors

A councilor must –

- (a) Perform the functions of office in good faith, honestly and in a transparent manner, and
- (b) At all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

3. Attendance at meetings

A councilor must attend each meeting of the municipal council and of a committee of which that Councilor is a member, except when –

- (1) Leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or
- (2) That Councilor is required in terms of this Code to withdraw from the meeting.

4. Sanctions for non-attendance of meetings

- (1) A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a Councilor for:
 - (a) not attending meeting which that Councilor is required to attend in terms of item (3); or
 - (b) failing to remain in attendance at such a meeting.
- (2) A Councilor who is absent from three or more consecutive meetings of a municipal council, of from three or more consecutive meetings of a committee which that Councilor is required to attend in terms of item 3, must be removed from office as a Councilor.
- (3) Proceedings for the imposition of a fine or the removal of a Councilor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item. The uniform procedure must comply with the rules of natural justice.

5. Disclosure of interests

(1) A Councilor must –

- (a) disclose to the municipal council, or to any committee of which that Councilor is a member, any direct or indirect personal or private business interest that Councilor, or any spouse, partner or business associate of that Councilor may have in any matter before the council or the committee; and
 - (b) withdraw from proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the Councilors direct or indirect interest in the matter is trivial or irrelevant.
- (2) A Councilor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the Councilor is aware at the first meeting of the municipal council at which council at which it is possible for the Councilor to make the disclosure.
- (3) This section does not apply to an interest or benefit which a Councilor, or a spouse, partner, business associate or close family member, has or acquired in common with other residents of the municipality.

6. Personal Gain

- (1) A councilor may not use the position or privileges of a Councilor, or confidential information obtained as a Councilor, for private gain or to improperly benefit another person.
- (2) Except with the prior consent of the municipal council, a Councilor may not –

- (a) be a party to or beneficiary under a contract for –
 - (i) the provision of goods or services to the municipality; or
 - (ii) the performance of any work otherwise than as a Councilor for the municipality;
 - (c) Obtain a financial interest in any business of the municipality; or
 - (d) For a fee or other consideration appear on behalf of any other person before the council or a committee.
- (3) If more than one quarter of the Councilors object to consent being given to a Councilor in terms of sub item (2), such consent may only be given to the Councilor with the approval of the MEC for local government in the province.

7. Declaration of interests

- (1) When elected or appointed, a Councilor must within 60 days declare in writing to the municipal manager the following financial interests held by that councilor:-
- (a) Shares and securities in any company;
 - (b) Membership of any close corporation
 - (c) Interest in any trust;
 - (d) Directorships;
 - (e) Partnerships;
 - (f) Other financial interests in any business undertaking;
 - (g) Employment and remuneration;
 - (h) Interest in property;
 - (i) Pension; and
 - (j) Subsidies, grants and sponsorships by any organization.
- (2) Any change in the nature or detail of the financial interests of a Councilor must be declared in writing to the municipal manager annually.
- (3) Gifts received by a Councilor above a prescribed amount must be declared in accordance with sub item (1).
- (4) The municipal council must determine which of the financial interests referred to in sub item (1) must be made public having regard to the need for confidentiality and the public interest for the disclosure.

8. Full-time Councilors

A Councilor who is full time Councilor may not undertake any other paid work, except with the consent of the municipal council which shall not be unreasonably withheld.

9. Rewards, gifts and favors

A Councilor may not request, solicit or accept any reward, gift or favor –

- (a) Voting or not voting in a particular manner or any matter before the municipal council or before a committee of which that Councilor is a member;
- (b) Persuading the council or any committee in regard to the exercise of any power, function or duty;
- (c) Making a representative to the council or any committee of the council; or
- (d) Disclosing privileged or confidential information.

10. Unauthorized disclosure of information

- (1) A Councilor may not without the permission of the municipal council or a committee discloses any privileged or confidential information of the council or committee to any unauthorized person.
- (2) For the purpose of this item "privileged or confidential information" includes any information –
- (a) Determined by the municipal council or committee to be privileged or confidential;
 - (b) Discussed in closed session by the council or committee;
 - (c) Disclosure of which would violate a persons rights to privacy;
 - (d) Declare to be privileged, confidential or secret in terms of law.
- (3) This item does not derogate from the right of any person to access to information in terms of national legislation.

11. Intervention in administration

A councilor may not, except as provided by law –

- (a) Interfere in the management of administration of any department of the municipal council unless mandated by the council;
- (b) Give or purport to give any instruction to any employee of the council except when authorized to do so;
- (c) Obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or
- (d) Encourage or participate in any conduct which would cause or contribute to maladministration in the council.

12. Council property

A councilor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which the councilor has no right.

- 12A A councilor may not be in arrears to the municipality for rates and service charges for a period longer than 3 months.

13. Duty of chairpersons of municipal councils

- (1) If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of this code has been breached, the chairperson must –
 - (a) Authorize an investigation of the facts and circumstances of the alleged breach;
 - (b) Give the Councilor a reasonable opportunity to reply in writing regarding the alleged breach; and
 - (c) Report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.
- (2) A report on sub item (1) (c) is open to the public.
- (3) The chairperson must report the outcome of the investigation to the MEC for local government in the province concerned.
- (4) The chairperson must ensure that each councilor when taking office is given a copy of this code and that a copy of the code is available in every room or place where the council meets.

14. Breaches of the code

- (1) A municipal council may –
 - (b) Investigate and make a finding on any alleged breach of a provision of this Code; or
 - (c) Establish a special committee –
 - (i) To investigate and make a finding on any alleged breach of this Code; and
 - (ii) To make appropriate recommendation to the council
- (2) If the council or a special committee finds that a Councilor has breached a provision of this code, the council may –
 - (a) Issue a formal warning to the Councilor;
 - (b) Reprimand the Councilor;
 - (c) Request the MEC for local government in the province to suspend the councilor for a period;
 - (d) Fine the councilor and
 - (e) Request the MEC to remove the councilor from office.
- (3) (a) Any Councilor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of sub item (2) may within 14 days of having been notified of the decision of council, appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.
 - (b) A copy of the appeal must be provided to the council.
 - (c) The council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC for local government in writing.
 - (d) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the Councilor and council of the outcome of the appeal.
 - (e) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the Councilor should be suspended or removed from office.
 - (f) The Commissions Act, 1947 (Act No.8 of 1947), or where appropriate, applicable provincial legislation, may be applied to an investigation in terms of sub item (e).
 - (g) If the MEC is of the opinion that the Councilor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may –
 - (h) Suspend the Councilor for a period and on conditions determined by the MEC; or
 - (i) Remove the councilor from office.
 - (j) Any investigation in terms of this item must be in accordance with the rules of natural justice.

15. Application of Code to traditional leaders

- (1) Items 1,2,5,6,9 (b) to (d), 10,11,12,13, and 14,(1) apply to a traditional leader who participates or has participated in the proceedings of a municipal council in terms of section 81 of the Municipal Structures Act.
- (2) These items must be applied to the traditional leader in the same way they apply to councilors.
- (3) If a municipal council or a special committee in terms of item (14) finds that a traditional leader has breached a provision of this Code, the council may –
 - (a) Issue a formal warning to the traditional leader; or
 - (b) Request the MEC for local government in the province to suspend or cancel the traditional leader's right to participate in the proceedings of the council.
- (4) The MEC for local government may appoint a person or committee to investigate any alleged breach of a provision of this code and to make a recommendation on whether the right of the traditional leader to participate in the proceedings of the municipal council should be suspended or cancelled.
- (5) The commissions Act, 1947, may be applied to an investigation in terms of sub item (4).
- (6) If the MEC is of the opinion that the traditional leader has breached a provision of this Code, and that such a breach warrants a suspension or cancellation of the traditional leaders right to participate in the councils proceedings, the MEC may-
 - (a) Suspend that right for a period and on conditions determined by the MEC; or
 - (b) Cancel that right.
- (7) Any investigation in terms of this item must be in accordance with the rules of natural justice.

- (8) The suspension or cancellation of a tradition leader's right to participate in the proceedings of a council does not affect the traditional leader's right to address the council in terms of section 81 of the Municipal Structures Act.

SCHEDULE 4

TERMS OF REFERENCE AND DELEGATED PLENARY POWERS OF THE EXECUTIVE COMMITTEE OF THE KWADUKUZA MUNICIPAL COUNCIL

CONSTITUTION

EXECUTIVE COMMITTEE

(A) SPECIFIC TERMS OF REFERENCE

1. Compliance with Section 44 of the Municipal Structures Act 117 of 1998.

"44. Functions and powers of executive committees. – (1) an executive committee is –

 - (a) The principal committee of the council if a municipality is of a type that is entitled to establish an executive committee; and
 - (b) The committee of a municipal council which receives reports from the other committees of the council and which must forward these reports together with its recommendations to the council when it cannot dispose of the matter in terms of its delegated powers.
2. The executive committee must –
 - (a) Identify the needs of the municipality;
 - (b) Review and evaluate those needs in order of priority;
 - (c) Recommend to the municipal council strategies, programmes and services to address priority needs through the integrated development plan and estimates of revenue and expenditure, taking into account any applicable national and provincial development plans; and
 - (d) Recommend or determine the best methods, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.
3. The executive committee in performing its duties must –
 - (a) identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in subsection (2) (c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general;
 - (b) evaluate progress against the key performance indicators;
 - (c) review the performance of the municipality in order to improve –
 - (i) The economy, efficiency and effectiveness of the municipality;
 - (ii) The efficiency of credit control and revenue and debt collection services; and
 - (iii) The implementation of the municipality's by-laws.
 - (d) monitor the management of the municipality administration in accordance with the policy directions of the municipal council;
 - (e) oversee the provision of services to communities in the municipality in a sustainable manner;
 - (f) perform such duties and exercise such powers as the council may delegate to it in terms of section 43;
 - (g) annually report on the involvement of communities and community organizations in the affairs of the municipality;
 - (h) ensure that regard is given to public views and report on the effect of consultation on the decisions of the council;
 - (i) take such action as may be necessary to ensure compliance by the Council with all legislation relating to or affecting local government;
 - (j) exercise all powers of the council which may be delegated by the council in terms of the Constitution or any other law and which has not been delegated or assigned to any Municipal functionary or municipal employee or is not deemed to be so delegated or assigned in terms of any law;
 - (k) consider and determine any particular matter or issue or any matter of policy referred to by the committee by the municipal manager;
 - (l) take any necessary or incidental decisions for the management or administration of any resolution of the Council;
 - (m) consider all aspects of the general planning and administration of the Municipality that fall within the lawful jurisdiction of the council;
 - (n) determine which association the council should become a member of in terms of applicable law and authorize the payment of required subscriptions in respect thereof;
 - (o) consider and report to the Council on the appointment of staff at post levels one and two;
 - (p) set or review telephone, transport and locomotion allowance policy.
 - (q) may instruct Municipal Manager on any policy matter which falls within the terms of reference of the Committee and the conditions of service of, such employee and which is not contrary of any mandatory provision of any law, Rule and / or delegation to any employee;
 - (r) shall, subject to the provisions of any law and/ or rule, exercise all the powers and carry out all the duties of the Council not delegated to any authorized employee or reserved by law or the Council to itself in relation to: -
 - (i) Pension fund matters;
 - (ii) Staff matters not delegated to any authorized employee;

- (s) may within the limits of the current annual estimates, and subject to such other authorities as may be required, authorize attendance of the Councilors at conferences within Southern Africa on subjects related to its Terms of Reference, and the payment of appropriate traveling and subsistence allowances and conference fees, car hire charges and similar disbursements incurred in relation to any such conferences.
- (4) An executive committee must report to the municipal council on all decisions taken by the committee.
2. Formulation and determination of all new policies and the review and revision of existing policies, including, especially financial matter, e.g. policies governing credit control and meter tampering/theft of electricity, the acceptance of grants and loans from other sources and financial regulations.
 3. Preparation and consideration of the capital and operating budget, including the assessment of rates and related tariff amendments, for recommendation to the KwaDukuza Municipality council.
 4. Matters concerning the collection and writing off of rates and other revenues.
 5. Matters concerning insurance or municipal assets, Councilors and employees of KwaDukuza Municipal Council.
 6. Matters concerning the boundaries of KwaDukuza Municipal Council, including incorporations, exceptions and alterations.
 7. Matters concerning the determination of ward boundaries.
 8. Matters concerning elections.
 9. Monitoring of various Boards affiliated to KwaDukuza Municipal Council.
 10. Matters of policy relating to the pension funds.
 11. Matters concerning organizational restructuring/re-engineering/realignment and the redeployment of staff and other resources as a result of the process.
 12. The creation of award of civic honors.
 13. Matters concerning public relations for Council and the dissemination of information to the public.
 14. Matters concerning disaster management.
 15. Finalization and awarding of contracts.
 16. Civic entertainment and courtesies provided that this function may be delegated to the mayor as a chairperson of the Executive Committee.
 17. Review and amendment of standing Rules and Orders.
 18. Legal and arbitration matters, including the institution of proceedings by, and the defence of proceedings against the Council and the right to compromise, withdraw and settle any such proceedings.
 19. Matters concerning all local government legislation and other support/ complimentary legislation and promotion thereof to give effect to the provisions of the Constitution.
 20. Matters concerning the review, making and amendment of bylaws, regulations and tariffs falling within the terms of reference of the committee.
 21. Matters relating to funding for the Integrated Development Plan (EDP).
 22. Any particular matters or issue or any matter of policy referred to the Executive committee or by the Municipal Manager.
 23. Illembe District Council matters, including the approval of applications for funding and acceptance of funding collections.
 24. All matters pertaining to organized local government e.g. Kwanaloga, Salga.
 25. Matters pertaining to Councilors allowances and any other benefits.
 26. Issues relating to funding of projects by bodies such as CMIP, DPLG, Traditional and Local Government affairs.
 27. Issues pertaining to partnerships with other institutions and contracting out of municipal services in consultation with the unions.
 28. Approval of council representatives for appointment to all other institutions, boards and bodies.
 29. Any matters not falling within the terms of reference of any other committee.

4. Ensuring that proper consultation has been adhered to which relate to the said terms of reference and delegating plenary powers.
Executive committee

(B) DELEGATED PLENARY POWERS

1. The Executive Committee shall have delegated plenary powers to exercise any of the powers, duties and functions of the council, excluding those plenary powers expressly delegated to other standing committees and those powers set out hereunder which are wholly reserved to the KwaDukuza Municipal Council.
 - 1.1 the framing and approval of estimates;
 - 1.2 the assessment and fixing of rates and grant of exemptions and rebates of rates;
 - 1.3 the expropriation of or the temporary taking of the right to use immovable property;
 - 1.4 the approval of tariffs;
 - 1.5 the making of rules and bylaws under any law;
 - 1.6 any power, duty or function which can be exercised or performed by the Council only in accordance with a resolution passed by either two-thirds or a majority of the total number of Councilors of the KwaDukuza Municipal Council.

2. Notwithstanding the provision of 1. above, the Executive Committee is authorized to exercise any of those plenary powers delegated to other Standing Committees in circumstances where any matters from other Standing Committees are referred to the Executive committee.
3. Finalization of contracts as per recommendation from the Appointment of Consultants Task Team.
4. The naming of public streets and suburbs.
5. Matters pertaining to the Alienation/ requisition of Land shall be considered by the Economic Development Planning Committee with recommendations to be made to the Executive Committee; the Executive Committee to have delegated authority to exercise the councils powers, functions and duties in terms of the following sections of the Local Authorities Ordinance: -
 - 5.1 Section 233 (Application of land by sale, grant, lease, exchange).
 - 5.2 Section 236 (Alienation in special cases).
 - 5.3 Section 237 (Restrictions imposed on conditions of alienation).
 - 5.4 Section 238 (Approval of alienation by public auction).
 - 5.5 Section 240 (Acquisition of immovable property).

Provided that the power to acquire immovable property shall be exercised only within limits of the amounts budgeted by the Council and, in any particular case where the price has not already been approved by the council, to expenditure not exceeding R300 000.
6. The Executive Committee shall have delegated authority to exercise powers on any matters not falling within the plenary powers of any other committee, excluding those powers wholly reserved for the KwaDukuza Municipal Council.

SCHEDULE 5

CONSTITUTION AND TERMS OF REFERENCE

FINANCE PORTFOLIO COMMITTEE

Conditions: -

1. Name the status

The Finance Portfolio Committee is a standing committee appointed in terms of section 80 of the Local Government Municipal Structures Act, 1998 to assist the executive Committee.

2. Membership

The committee shall consist of: -

- (1) A chairperson appointed by the council;
- (2) A number not exceeding 10 Councillors as appointed by the Council.
- (3) The Mayor as a voting ex officio member.

3. Quorum

The quorum of the committee shall be not less than fifty percent [disregarding fractions] plus one (50% [disregarding fractions] + 1) of current members (excluding the Mayor).

4. Rules of Procedure

The Rules of Order of the Council, insofar as they govern Committees, shall apply to the Committee.

5. Functions

- 5.1 The Committee shall monitor, investigate, enquire into and make recommendations to the Executive Committee relating to any aspect affecting the Council in connection with following functions:-

- (a) Tenders
- (b) Audit;

- 5.2 The Committee shall also monitor investigate, enquire into and make recommendations to the Executive Committee on any other matter referred to it by the Executive Committee for such monitoring, investigations or enquiry.

- 5.3 In carrying out its functions the Committee:-

- (a) shall at all times ensure that it complies with all requirements of law in regard to public participation, the receipt of evidence or representations and similar matters;
- (b) shall, subject to paragraph 4 hereof, determine the extent, nature and form of its proceedings.

6. Standing Authorities

Without derogating from the foregoing and subject to the provisions of any law, the Committee is authorized to advise, from time to time, the Executive Committee and any Employee to whom specific powers have been delegated on:-

- (1) aspects of policy in respect of the function of the Committee;
- (2) all bylaws, fees, tariffs which the Council may enact or prescribe within the terms of reference of the committee.
- (3) Any legislation or proposed legislation falling within the terms of reference of the committee which the Council may adopt.
- (4) Any amendments to the terms of reference of the committee.

7. General Policy Functions

The Committee may:-

- (1) appoint from within its own membership a sub-committee with powers to co-opt such other members as the sub-committee deem fit, to consider and to report to the Committee on any matter falling within its terms of reference.

- (2) Refer to the Executive Committee for decision, with or without a recommendation, any matter falling within its terms of reference;
- (3) consider all matters of a policy nature incidental to the above terms of reference and submit recommendations on such matters to the Executive Committee.

LOCAL PUBLIC ADMINISTRATION & HUMAN RESOURCES PORTFOLIO COMMITTEE

Constitution

1. Name and Status

The Local Public Administration & Human Resources Portfolio Committee is a standing committee appointed in terms of section 80 of the Local Government: Municipal Structures Act, 1998 to assist the Executive Committee.

2. Membership

The Committee shall consist of:-

- (1) a Chairperson appointed by the Council;
- (2) a number not exceeding 10 Councillors as appointed by the Council.
- (3) the Mayor as a voting ex officio member.

3. Quorum

The quorum of the committee shall be not less than fifty percent [disregarding fractions] plus one (50% [disregarding fractions] + 1) of current members (excluding the Mayor).

4. Rules of Procedure

The Rules of Order of the Council, insofar as they govern Committees, shall apply to the Committee.

5. Functions

5.1 The Committee shall monitor, investigate, enquire into and make recommendations to the Executive Committee relating to any aspect affecting the Council in connection with following functions:-

- (a) Local Public Administration with particular reference to Chapter 7 of the Local Government: Municipal Systems Act, 2000;
- (b) Human Resources;
- (c) Labour Relations;
- (d) Occupational Safety.

5.2 The Committee shall also monitor, investigate, enquire into and make recommendations to the Executive Committee on any other matter referred to it by the Executive Committee for such monitor, investigate or enquire.

5.3 In carrying out its functions the Committee:-

- (a) shall at all times ensure that it complies with all requirements of law in regard to public participation, the receipt of evidence or representations and similar matters;
- (b) shall, subject to paragraph 4 hereof, determine the extent, nature and form of its proceedings.

6. Standing Authorities

Without derogating from the foregoing and subject to the provisions of any law, the Committee is authorized to advise, from time to time, the Executive Committee and any Employee to whom specific powers have been delegated on:-

- (1) aspects of policy in respect of the function of the Committee;
- (2) all bylaws, fees, tariffs which the Council may enact or prescribe within the terms of reference of the committee.
- (3) Any legislation or proposed legislation falling within the terms of reference of the committee which the Council may adopt.
- (4) Any amendments to the terms of reference of the committee.

7. General Policy Functions

The Committee may:-

- (1) appoint from within its own membership a sub-committee with powers to co-opt such other members as the sub-committee deem fit, to consider and to report to the Committee on any matter falling within its terms of reference.
- (2) Refer to the Executive Committee for decision, with or without a recommendation, any matter falling within its terms of reference;
- (3) consider all matters of a policy nature incidental to the above terms of reference and submit recommendations on such matters to the Executive Committee.

AMENITIES, SAFETY AND SECURITY PORTFOLIO COMMITTEE

1. Name and Status

The Amenities, Safety and Security Portfolio Committee is a standing committee appointed in terms of section 80 of the Local Government: Municipal Structures Act, 1998 to assist the Executive Committee.

2. Membership

The Committee shall consist of:-

- (1) a Chairperson appointed by the Council;
- (2) a number not exceeding 10 Councillors as appointed by the Council.
- (3) the Mayor as a voting ex officio member.

3. Quorum

The quorum of the committee shall be not less than fifty percent [disregarding fractions] plus one (50% [disregarding fractions] + 1) of current members (excluding the Mayor).

4. Rules of Procedure

The Rules of Order of the Council, insofar as they govern Committees, shall apply to the Committee.

5. Functions

5.1 The Committee shall monitor, investigate, enquire into and make recommendations to the Executive Committee relating to any aspect affecting the Council in connection with following functions:-

- (a) Libraries;
- (b) Museums;
- (c) Beach Amenities;
- (d) Marine Safety;
- (e) Sport & Recreation;
- (f) Parks & Gardens;
- (g) Verge Maintenance;
- (h) Cemeteries;
- (i) Pounds;
- (j) Emergency Services (Traffic and Fire);
- (k) Security Services;
- (l) Disaster Management;
- (m) Communications;
- (n) Vehicle Licensing;
- (o) Trade Licensing;
- (p) General Law Enforcement;
- (q) Environmental Health;
- (r) Personal Health.

5.2 The Committee shall also monitor, investigate, enquire into and make recommendations to the Executive Committee on any other matter referred to it by the Executive Committee for such monitor, investigate or enquire.

5.3 In carrying out its functions the Committee:-

- (a) shall at all times ensure that it complies with all requirements of law in regard to public participation, the receipt of evidence or representations and similar matters;
- (b) shall, subject to paragraph 4 hereof, determine the extent, nature and form of its proceedings.

6. Standing Authorities

Without derogating from the foregoing and subject to the provisions of any law, the Committee is authorized to advise, from time to time, the Executive Committee and any Employee to whom specific powers have been delegated on:-

- (1) aspects of policy in respect of the function of the Committee;
- (2) all bylaws, fees, tariffs which the Council may enact or prescribe within the terms of reference of the committee.
- (3) Any legislation or proposed legislation falling within the terms of reference of the committee which the Council may adopt.
- (4) Any amendments to the terms of reference of the committee.

7. General Policy Functions

The Committee may:-

- (1) appoint from within its own membership a sub-committee with powers to co-opt such other members as the sub-committee deem fit, to consider and to report to the Committee on any matter falling within its terms of reference.
- (2) Refer to the Executive Committee for decision, with or without a recommendation, any matter falling within its terms of reference;
- (3) consider all matters of a policy nature incidental to the above terms of reference and submit recommendations on such matters to the Executive Committee.

INFRASTRUCTURAL AND TECHNICAL PORTFOLIO COMMITTEE

1. Name and Status

The Infrastructural and Technical Committee is a standing committee appointed in terms of section 80 of the Local Government: Municipal Structures Act, 1998 to assist the Executive Committee.

2. Membership

The Committee shall consist of:-

- (1) a Chairperson appointed by the Council;
- (2) a number not exceeding 10 Councillors as appointed by the Council.
- (3) the Mayor as a voting ex officio member.

3. Quorum

The quorum of the committee shall be not less than fifty percent [disregarding fractions] plus one (50% [disregarding fractions] + 1) of current members (excluding the Mayor).

4. Rules of Procedure

The Rules of Order of the Council, insofar as they govern Committees, shall apply to the Committee.

5. Functions

5.1 The Committee shall monitor, investigate, enquire into and make recommendations to the Executive Committee relating to any aspect affecting the Council in connection with following functions:-

- (a) Water;

- (b) Sewerage;
- (c) Roads;
- (d) Storm Water;
- (e) Electricity;
- (f) Street Lights;
- (g) Mechanical Workshops;
- (h) Fleet Management;
- (i) Cleansing & Waste Management;
- (j) Municipal Buildings.

5.2 The Committee shall also monitor, investigate, enquire into and make recommendations to the Executive Committee on any other matter referred to it by the Executive Committee for such monitor, investigate or enquire.

5.3 In carrying out its functions the Committee:-

- (a) shall at all times ensure that it complies with all requirements of law in regard to public participation, the receipt of evidence or representations and similar matters;
- (b) shall, subject to paragraph 4 hereof, determine the extent, nature and form of its proceedings.

6. Standing Authorities

Without derogating from the foregoing and subject to the provisions of any law, the Committee is authorized to advise, from time to time, the Executive Committee and any Employee to whom specific powers have been delegated on:-

- (1) aspects of policy in respect of the function of the Committee;
- (2) all bylaws, fees, tariffs which the Council may enact or prescribe within the terms of reference of the committee.
- (3) Any legislation or proposed legislation falling within the terms of reference of the committee which the Council may adopt.
- (4) Any amendments to the terms of reference of the committee.

7. General Policy Functions

The Committee may:-

- (1) appoint from within its own membership a sub-committee with powers to co-opt such other members as the sub-committee deem fit, to consider and to report to the Committee on any matter falling within its terms of reference.
- (2) Refer to the Executive Committee for decision, with or without a recommendation, any matter falling within its terms of reference;
- (3) consider all matters of a policy nature incidental to the above terms of reference and submit recommendations on such matters to the Executive Committee.

ECONOMIC DEVELOPMENT, PLANNING, COMMUNITY DEVELOPMENT AND HOUSING PORTFOLIO COMMITTEE

1. Name and Status

The Infrastructural and Technical Committee is a standing committee appointed in terms of section 80 of the Local Government: Municipal Structures Act, 1998 to assist the Executive Committee.

2. Membership

The Committee shall consist of:-

- (1) a Chairperson appointed by the Council;
- (2) ten (10) other Councilors appointed by the Council; and
- (3) the Mayor as a voting ex officio member.

3. Quorum

The quorum of the committee shall be not less than fifty percent [disregarding fractions] plus one (50% [disregarding fractions] + 1) of current members (excluding the Mayor).

4. Rules of Procedure

The Rules of Order of the Council, insofar as they govern Committees, shall apply to the Committee.

5. Functions

5.1 The Committee shall monitor, investigate, enquire into and make recommendations to the Executive Committee relating to any aspect affecting the Council in connection with following functions:-

- (a) Town Planning;
- (b) Economic Development;
- (c) Community Development;
- (d) Housing;
- (e) Environment Conservation;
- (f) Building Control.

5.2 The Committee shall also monitor, investigate, enquire into and make recommendations to the Executive Committee on any other matter referred to it by the Executive Committee for such monitor, investigate or enquire.

5.3 In carrying out its functions the Committee:-

- (a) shall at all times ensure that it complies with all requirements of law in regard to public participation, the receipt of evidence or representations and similar matters;
- (b) shall, subject to paragraph 4 hereof, determine the extent, nature and form of its proceedings.

6. Standing Authorities

Without derogating from the foregoing and subject to the provisions of any law, the Committee is authorized to advise, from time to time, the Executive Committee and any Employee to whom specific powers have been delegated on:-

- (1) aspects of policy in respect of the function of the Committee;
- (2) all bylaws, fees, tariffs which the Council may enact or prescribe within the terms of reference of the committee.
- (3) Any legislation or proposed legislation falling within the terms of reference of the committee which the Council may adopt.
- (4) Any amendments to the terms of reference of the committee.

7. General Policy Functions

The Committee may:-

- (1) appoint from within its own membership a sub-committee with powers to co-opt such other members as the sub-committee deem fit, to consider and to report to the Committee on any matter falling within its terms of reference.
- (2) Refer to the Executive Committee for decision, with or without a recommendation, any matter falling within its terms of reference;
- (3) consider all matters of a policy nature incidental to the above terms of reference and submit recommendations on such matters to the Executive Committee.

SEAT ALLOCATION FOR PORTFOLIO COMMITTEES

TOTAL				Less Exco Members	Councillors not allocated		Portfolio Committee seats
Party	Seats	Speaker	Balance				
ANC	37	1	36	6	30		30
DA	8		8	1	7		10
IFP	4		4	1	3		5
NFP	2		2	0	2		0
ACDP	1		1	0	1		0
MF	1		1	0	1		0

				Local Public	Economic
Party	Amenities Safety Security Portfolio Committee	& Infrastructure and Technical Portfolio Committee	Finance Portfolio Committee	Administration and Human Resources Portfolio Committee	Development Planning and Housing Portfolio Committee
ANC	6	6	6	6	6
DA	2	2	2	2	2
IFP	1	1	1	1	1
Sub Total	9	9	9	9	9
Chairman	1	1	1	1	1
Mayor (Ex officio)					
Total	10	10	10	10	10