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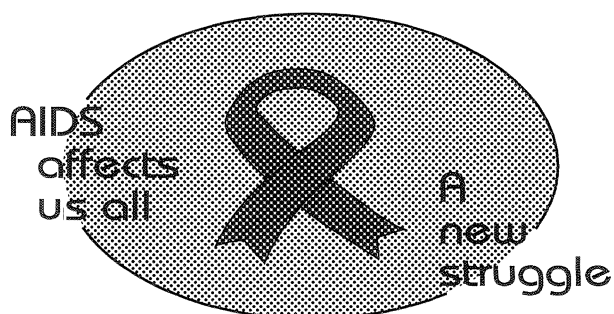
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**PIETERMARITZBURG,**

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**No. 777**

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**MUNICIPAL NOTICE**

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**No. 59****9 July 2012****TARIFF BY-LAWS**

**be it enacted by the Council of the KwaDukuza Municipality, in terms of section 156(2) of the Constitution, 1996, read with section 11(3)(m) of the Local Government : Municipal Systems Act, 2000 (Act No 32 of 2000), as follows:**

**ARRANGEMENT OF SECTIONS****Section**

1. Preamble
2. Definitions
3. Power to levy and recover fees, charges and tariffs
4. Introduction
5. Objective
6. Key Principles
7. Classification and Pricing Strategies of Services
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## 1. Preamble

In terms of Section 62(1) of the Municipal Finance Management Act (MFMA) the Accounting Officer of a Municipality is responsible for managing the financial administration of the municipality and in, terms of S62(1)(f), must for this purpose take all reasonable steps to ensure – “that the municipality has and implements a tariff policy referred to in Section 74 of the Municipal Systems Act (MSA).

In giving effect to S74 (1) of the Municipal Systems Act, the municipality adopted a tariff policy, and these bylaws give effect to the policy in terms of Section 75(1) of the Municipal Systems Act.

## 2. Definitions

“Municipal area” means the area in respect of which the municipality has executive and legislative authority as determined by the constitution and the National legislation and the area as demarcated by the Demarcation Act (Act 27 of 1998);

“**Municipal council**” means a municipal council referred to in section 157 of the Constitution and for this by-law includes a municipal local council and a municipal district council, as the case maybe.

“**Indigent households**” means those households in the municipal area that cannot afford to pay either the entire tariff charge for the municipal services, or part of it;

Also means those households in the municipal area that cannot afford to pay either the entire tariff charge for the municipal services, or part of it;

Also means those households in the municipal area living in property with a municipal property valuation under a certain amount as determined by Council and earn less than an amount as determined by Council per month.

“**Tariff policy**” means a policy on the levying of fees, rates or taxes for the municipal services provided by the municipality itself and that complies with the Municipal Systems Act 2000 (Act 32 of 2000);

“**the Act**” means the Municipal Systems Act 2000, (Act 32 of 2000)(MSA).

## 3. POWER TO LEVY AND RECOVER FEES, CHARGES AND TARIFFS

3.1 The power of the municipality to levy fees, charges and tariffs is subject to:

- a) Section 229 and other applicable provisions of the constitution
- b) The provisions of the Act
- c) The municipality’s tariff policy
- d) These bylaws

#### **4. PRINCIPLES**

- 4.1 The Municipal Council shall provide services to the people resident within its municipal area.
- 4.2 The Municipal Council shall fund these services by but it is not limited to the levying property taxes and charging for municipal services rendered.
- 4.3 The tariffs represent the charges levied by Council on consumers for the utilization of services provided by the Municipality.
- 4.4 The tariffs are calculated dependent on the nature of services being provided and may be set in a manner so as to recover the full cost of the service being provided or recover part of the costs or bring about a surplus that can be utilized to subsidize other non-economical services.

#### **5. OBJECTIVES**

The objectives of the municipal council in the adoption of the tariff bylaw is to ensure that:

- 5.1 the tariffs of the municipality comply with the legislation prevailing at the time of implementation
- 5.2 the Municipal services are financially sustainable, affordable and equitable.
- 5.3 The needs of the indigent, aged and disabled are taken into consideration.
- 5.4 There is consistency in how the tariffs are applied throughout the municipality and;
- 5.5 The policy is drawn in line with the principles as outlined in the MSA (see 5 below)

#### **6. KEY PRINCIPLES**

The Municipal Council in terms of the Act shall utilize the following key principles in the formulation of the tariff bylaw which shall be amended by Council from time to time:

- 6.1 The users of municipal services should be treated equitably in the application of tariffs.
- 6.2 The consumers should pay in proportion to the amount of services consumed, if practically possible.
- 6.3 All households, with the exception of the poor (indigent), should pay the full costs of services consumed and poor households must have access to at least a minimum level of basic services through;
  - 6.3.1 tariffs that cover the operating and maintenance costs;
  - 6.3.2 special lifeline tariffs for low levels of use or consumption of services or for basic levels of service; or
  - 6.3.3 any other direct or indirect method of subsidization of tariff for poor households;
- 6.4 Tariff must include the cost reasonably associated with rendering the service, including capital, operating, maintenance, administration, replacement and interest charges.
- 6.5 Tariffs must be set at a level to facilitate financial sustainability of the service, taking into account subsidization from sources other than the service concerned.
- 6.6 Provision may be made in appropriate circumstance for a surcharge on the tariff for a service.

- 6.7 Provision may be made for the promotion of local economic development through a special tariff for categories of the commercial and industrial users.
- 6.8 The economical, efficient and effective use of resources, the recycling of wastes and other appropriate environmental objectives must be encouraged.
- 6.9 The extent of subsidization of the poor households and other categories of users should be fully disclosed.
- 6.10 The municipal council shall comply with section 74(3) of the Act.

## **7. CLASSIFICATION AND PRICING STRATEGIES OF SERVICES**

### **7.1 Trading Services**

- 7.1.1 The municipal council shall apply the criteria and principles are set out in the tariff bylaw which may be amended from time to time by the municipal council.
- 7.1.2 these services are defined whereby the consumption of the service is measurable and can be accurately apportioned to an individual consumer.
- 7.1.3 The Council's pricing strategy for these services is to recover the full cost of rendering the service to the communities and the full cost includes:
  - 7.1.2.1 Direct operating costs eg. Salaries, allowances including overtime, materials used, repairs and maintenance, general expenses and plant and vehicle hire.
  - 7.1.2.2 Depreciation/capital charges bases on usage, life of buildings, plant and equipment and infrastructure used.
  - 7.1.2.3 Financing outlays which includes loan service costs.
  - 7.1.2.4 Allocated costs that include costs allocated through support services.

### **7.2 Rates and General Services**

This service is further classified into 3 categories (ie. economic, subsidized and community services).

#### **7.2.1 Economic Service**

- 7.2.1.1. the municipal council shall apply the criteria and principles set out in the tariff bylaw which may be amended from time to time by the municipal council.
- 7.2.1.2 these are services for which tariffs are fixed in such a way that the full cost of providing the service is recovered without incurring a surplus or deficit for example, trade effluent includes commercial and industrial refuse removal.

- 7.2.1.3 the consumption of an economical service can be measured or determined with reasonable accuracy and apportioned to an individual consumer.
- 7.2.1.4 The tariffs for these services are determined in that user charges cover the cost of providing the service and these costs can be determined as follows:
  - 7.2.1.4.1 full cost of providing the serviced as explained in 6.1 above
  - 7.2.1.4.2 the rate per unit is based on projected usage.

## **7.2.2 Subsidized Services**

- 7.2.2.1 The municipal council shall apply the criteria and principles are set out in the tariff bylaw which may be amended from time to time by the municipal council.
- 7.2.2.2 These are services for which tariffs are fixed in order that at least a portion of the cost of providing the service can be recovered.
- 7.2.2.3 The consumption of these services can be determined accurately and can be apportioned to individuals and consumers.
- 7.2.2.4 These services include fire-fighting, approval of building plans and the construction of buildings, leasing of municipal facilities, selling of burial sites and certain town planning functions.

## **7.3.3 Community Services**

- 7.3.3.1 The municipal council shall apply the criteria and principles set out in the tariff bylaw which may be amended from time to time by the municipal council.
- 7.3.3.2 Community services are those services for which the municipal council is unable to accurately determine the consumption and hence apportion to individual consumers.
- 7.3.3.3 These services are typically financed through property rates.
- 7.3.3.4 These services include the operation and maintenance of parks and recreational facilities provision and maintenance of roads and storm water drainage systems, the establishment, management and maintenance of cemeteries and traffic regulation.
- 7.3.3.5 Domestic refuse removal is also a community service provider directly to all the residents and for which costs form part of a balanced budget.
- 7.3.3.6 The Municipal Council shall also provide support services such as committee services, records and archives, financial management accounting and stores, occupational health and human resources management, which are financed through property rates.

#### **7.4 Housing and Hostel Services**

- 7.4.1 The municipal council shall apply the criteria and principles are set out in the tariff bylaw which may be amended from time to time by the municipal council.
- 7.4.2 These are grouped into three categories, namely, letting schemes, selling schemes and hostels.
- 7.4.3 All income and expenditure transactions in respect of such schemes fall into this category and the objective of the service is to be economic, i.e. the operating income should cover the operating expenditure.
- 7.4.4 These functions are being carried out on an agency as these are not deemed as Local Government functions.

### **8. KEY OBJECTIVES AND TARIFF BYLAW PRINCIPLES**

#### **8.1 A minimum amount of basic services must be free**

- 8.1.1 The municipal council shall apply the criteria and principles are set out in the tariff bylaws which may be amended from time to time by the municipal council.
- 8.1.2 The municipal council subscribes in their tariff policy all poor households are entitled to a minimum amount of the basic services.
- 8.1.3 A basic service is a service that is necessary to ensure an acceptable and reasonable quality of life and, if not provided, would endanger public health or safety of the environment and these services include:
  - 8.1.3.1 Domestic refuse removal
  - 8.1.3.2 Electricity and Municipal Health service
- 8.1.4 The municipality shall increase the tariff for services above the minimum level of consumption to meet the objectives as set out in the tariff policy
- 8.1.5 These increases are necessary to make good any shortfall resulting from free services and to ensure a balance budget on the trading account.

#### **8.2 Keeping Tariffs Affordable**

- 8.2.1 The municipal council shall apply the criteria and principles as set out in the tariff bylaw which may be amended from time to time by the municipal council.
- 8.2.2 The municipal council is aware of the financial situation of most residents within the municipal area.



8.2.3 The municipal council shall in order to remain affordable, the Council will ensure that :

8.2.3.1 Services are delivered at an appropriate level.

8.2.3.2 Efficiency improvements are actively pursued across the Municipalities' operations.

8.2.3.3. A performance management system is introduced to ensure that plans that are devised are actually implemented, that resources are obtained as economically as possible, used efficiently and effectively and that appropriate service delivery mechanisms are used.

8.2.3.4 Any non-core functions that it currently performs are phased out as soon as possible without depriving the community of any services that really contributes to the quality of life of people in our area and;

8.2.3.5 Any service that is provided for which there is little demand, be priced at the actual cost of providing it, and if this requires the municipal council to maintain significant infrastructure and other facilities, they should be phased out, except where the Council is by law required to provide such a service.

### **8.3 Introducing the "Consumer must pay principle"**

8.3.1 The municipal council shall apply the criteria and principles are set out in the tariff bylaw which may be amended from time to time by the municipal council.

8.3.2 The municipal council regulates that consumers of services must pay for the amount of services that they use.

8.3.3. If it is possible to measure the consumption services, the municipal council shall install metering systems to take into account the free service element.

8.3.4 The tariffs for such services shall include all relevant cost factors.

### **8.4 Redistribution / Cross Subsidization**

8.4.1 The municipal council shall apply the criteria and principles are set out in the tariff bylaw which may be amended from time to time by the municipal council.

8.4.2 The municipal council takes into account the fact that some members of the community are better able to afford to pay for the services that they use and have the benefit of, than others.

8.4.3 The municipal council ensure that the budget of the Municipality is an important device in ensuring redistribution within the community.

- 8.4.4 Persons within the municipal area that pay higher property rates based on the value of their properties, in fact subsidize those who pay less tax.
- 8.4.4 The municipal council shall utilize the trading surplus it realizes on the trading account to bring relief with regard to property tax rates.
- 8.4.5 The municipal council shall ensure that the cross-subsidization occurs between and within services to further contribute to its redistribution objectives.

#### **8.5 Promoting Local and Economic Competitiveness and Development**

- 8.5.1 The municipal council shall apply the criteria and principles are set out in the tariff bylaw which may be amended from time to time by the municipal council.
- 8.5.2 The municipality recognizes that the size of the property rates and service charges accounts presented to the local businesses, is a significant business overhead for any business enterprise in the Municipal area.
- 8.5.2 The overhead of a business is one of the factors that influence the price of goods and services sold by it, and therefore its profitability and chances of survival.
- 8.5.3 The municipal council shall ensure that the municipal accounts presented to local businesses are fair.
- 8.5.4 The municipal council, to achieve the objectives in 7.5.3 above, shall in the determination of tariffs ensure that the under-mentioned principles are taken into account.
  - 8.5.4.1 To promote local economic competitiveness and
  - 8.5.4.2 To promote local economic development and growth.

#### **8.6 Ensuring Financial Sustainability of Service Delivery**

- 8.6.1 The municipal council shall apply the criteria and principles are set out in the tariff bylaws which may be amended from time to time by the municipal council.
- 8.6.2 The municipal council shall ensure that the services that it provides must be sustainable in terms of the Act and the Constitution of the Republic of South Africa, 1996.
- 8.6.3 The municipal council shall ensure the financial sustainability of the municipality as reflected in the tariff policy and the vision of the municipal council and in terms of all relevant legislation.
- 8.6.4 The municipal council shall ensure that the tariff for a service must therefore be sufficient to cover the cost of the initial capital expenditure required and interest thereon, managing and operating the service and maintaining, repairing and replacing the physical assets used in its provision.

- 8.6.5 The municipal council shall adopt and apply a Credit Control and Debt Collection bylaw to ensure that property rates and service charges are fully recovered.

## **8.7 Indigents**

- 8.7.1 The municipal council shall apply the criteria and principles are set out in the tariff bylaw which may be amended from time to time by the municipal council.
- 8.7.2 The indigent assistance scheme will apply as per the Tariffs of Charges, Indigent Policy and Credit Control Bylaw as adopted by the municipal council.
- 8.7.3 In respect of customer service agreements, deposits and guarantees, accounts and billing, and all other items pertaining the credit control and debt collection, related to tariffs, reference must be made to the Credit Control and Debt Collection Policy as adopted by the municipal Council.

## **9. TARIFF DETERMINATION PROCESS**

- 9.1 The municipal council shall apply the criteria and principles are set out in the tariff bylaw which may be amended from time to time by the municipal council.
- 9.2 Except in special circumstances, such as significant increases in the wholesale price of goods and services that the municipal council purchases during a year to provide services, the council will review its tariffs during the preparation of the annual budget.
- 9.3 Proposed tariffs will be presented to the community during Council's consultation process about the budget.
- 9.4 The municipal council shall comply with Section 75(A) of the MSA Amendment Act 51 of 2002, which states:
- 8.4.1 *That it can levy and recover fees, charges or tariffs in respect of any function or service of the municipality.*
- 8.4.2 *That fees and charges levied are passed by the municipal council with a supporting vote of a majority of its members.*
- 9.5 The proposed tariffs will be presented to the community during Council's consultations process about the budget.
- 9.6 The municipal council shall ensure that the annual tariffs per service should be compared to the activity based costing results, to view the probability per service and level of cross subsidization.
- 9.7 The municipal council shall endeavor to provide, provide a cost-reflective service charge.
- 9.8 The municipal council shall comply with Section 75(A)(3) of the Act.

**10. REVIEW THE POLICY**

- 10.1 This policy will be reviewed annually and adopted by the municipal council prior to the budgetary processes being finalized.

**11. WEBSITE**

- 11.1 The Council shall in terms of Section 75(1) of the Municipal Finance Management Act 56 of 2003, place the adopted tariff policy and these bylaws on the official website of the Municipality.

**12. SHORT TITLE**

These by-laws will be called the Tariff Bylaws of the KwaDukuza Municipality , By-Laws 2012.

**13. COMMENCEMENT**

These by-laws come into force and effect on date of promulgation of this by-law in the provincial gazette.

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