

**ALFRED DUMA LOCAL MUNICIPALITY**

**CREDIT CONTROL AND DEBT COLLECTION BY LAW**



CHAPTER 1: DEFINITIONS .....	4
CHAPTER 2: DUTIES AND FUNCTIONS. ....	9
1. Duties and functions of the Municipal Council .....	9
2. Duties and functions of the Executive Committee .....	10
3. Duties and functions of the Municipal Manager .....	10
Duties and functions of the Municipal Manager are to: .....	10
4. Duties and functions of Communities, Ratepayers and Residents .....	11
5. Duties and functions of Ward Councillors and Political Parties .....	11
CHAPTER 3: PROVISION OF MUNICIPAL SERVICES TO CUSTOMERS OTHER THAN INDIGENT CUSTOMERS .....	12
6. Part 1: Application for Municipal Services .....	12
6.1 Application for services .....	12
7. Special Agreements for Municipal Services .....	13
8. Change in Purpose for which Municipal Services Are Used .....	14
9. Part 2: Applicable Charges .....	14
9.1 Applicable Charges for Municipal Services .....	14
10. Availability Charges for Municipal Services .....	14
11. Subsidised Services .....	15
12. Authority to Recover Additional Costs and Fees .....	16
13. Part 3: Payment .....	16
13.1 Payment of Deposit .....	16
14. Methods for determining amounts due and payable .....	17
15. Payment for municipal services provided .....	18
16. Full and Final Settlement of an Account .....	18
17. Responsibility for Amounts Due and Payable .....	19
18. Dishonoured Payments .....	19
19. Incentive Schemes .....	19
20. Pay-points and Approved Agents .....	19
21. Part 4: Accounts .....	20
21.1 Accounts .....	20
22. Consolidated Debt .....	21
23. Part 5: Queries, Complaints and Appeals .....	21
23.1 Queries or Complaint in Respect of an Account .....	21
24. Appeals Against Finding of the Municipality or its Authorised Agent in Respect of Queries or Complaints .....	22
25. Part 6: Arrears .....	22
25.1 Interest .....	22
26. Account 60 days in Arrears .....	22
27. Part 7: Agreement for the Payment of Arrears in Instalments .....	23

27.1 Agreements .....	23
28. Copy of Agreement to Customer.....	23
29. Failure to Honour Agreements .....	23
30. Reconnection of Services.....	24
CHAPTER 4: ASSESSMENT RATES.....	24
31. Amount due for Assessment Rates .....	24
CHAPTER 5: PROVISION OF MUNICIPAL SERVICES TO INDIGENT CUSTOMERS .....	25
32. Qualification for Registration as an Indigent Customer .....	25
33. Application for Registration.....	25
34. Approval of Application .....	26
35. Conditions.....	26
36. Application every 12(twelve) months .....	26
37. Subsidised Services for Indigent Customers.....	26
38. Funding of Subsidised Services.....	27
39. Existing Arrears of Indigent Customers on Approval of Application .....	27
40. Audits.....	28
41. De-Registration.....	28
CHAPTER 6: BUSINESS WHO TENDER TO THE MUNICIPALITY.....	28
42. Procurement Policy and Tender Conditions.....	28
CHAPTER 7: UNAUTHORISED SERVICES.....	29
43. Unauthorised Services .....	29
44. Interference with Infrastructure for the Provision of Municipal Services .....	29
45. Obstruction of Access to Infrastructure for the Provision of Municipal Services .....	30
46. Illegal Reconnection .....	30
47. Immediate Disconnection.....	30
CHAPTER 8: OFFENCES .....	31
48. Offences.....	31
CHAPTER 9: DOCUMENTATION .....	31
49. Signing of Notices and Documents.....	31
50. Notice and Documents .....	31
51. Authentication of Documents .....	32
52. Prima facie Evidence.....	32
CHAPTER 10: GENERAL PROVISIONS .....	33
53. Power of Entry and Inspection .....	33
54. Exemption.....	33
55. Availability of By-Laws .....	33
56. Conflict of Law .....	34
57. Repeal of Existing Municipal Credit Control By-Laws.....	34
58. Short Title and Commencement .....	34

## PREAMBLE

**Whereas** one of the constitutional objectives of local government is to provide democratic and accountable government for local communities.

**AND Whereas** section 96(a) of the Local Government: Municipal Systems Act 2000 requires that a municipality must collect all money that is due and payable to it, subject to this Act and any other applicable legislation and for this purpose, must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariffs policies and complies with the provisions of this Act.

AND Whereas there is a need to have financial Bylaws to guide the actions of political structure, political office bearers and municipal officials and service providers at local government level to secure transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of the municipality.

Be it therefore enacted by the municipal council of the Municipality of KZN 238 as follows:

## CHAPTER 1: 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 provided;

**“Act”** means the local Government: Municipal System Act No. 32 of 2000, as amended;

**“applicable charges”** means the rate, charge, tariff, flat rate, or subsidy determined by the Municipal Council;

**“average consumption”** means the average consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service by that customer over the preceding three months by three;

**“shared consumption”** means the consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone within which a customer’s premises is situated for the same period by the number of customers within that supply zone, during the same period;

**“actual consumption”** means the measured consumption of any customer;

**“agreement”** means the contractual relationship between the Municipality or its authorised agent and a customer, whether written or deemed;

**“area of supply”** means any area within or partly within the area of jurisdiction of the Municipality to which a municipal service or municipal services are provided;

**“arrears”** means any amount due, owing and payable by a customer in respect of municipal services not paid on the due date;

**“authorised agent”** means-

- (a) any person authorised by Municipal Council 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 Municipal Council has delegated the performance of certain rights, duties and obligation in respect of providing revenue services; and/or
- (c) any person appointed by the Municipal Council in terms of a written contract as a service provider to provide revenue services to customers on its behalf, to the extent authorised in such contract;

**“commercial customer”** means any customer other than household and indigent customer, including without limitation, business, government and institution customers;

**“connection”** means the point at which a customer gains access to municipal services;

**“customer”** means a person with whom the Municipality or its authorised agent has concluded an agreement for the provision of municipal services;

**“defaulter”** means a customer who owes arrears;

**“due date”** means the date on which the amount payable in respect of an account becomes due, owing and payable by the customer, which date shall be not less than 21 days after the date of the account;

**“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 purpose;

**“household”** means a traditional family unit consisting of maximum of eight persons (being a combination of four persons over the age of eighteen and four persons eighteen years or younger);

**“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 in accordance with these Bylaws;

**“Municipality”** means-

- (a) the eMnambithi-Ladysmith Municipality, or the Alfred Duma Local Municipality or their successors-in-title; or

- (b) the Municipal Manager of the Alfred Duma Local Municipality in respect of the performance of any function or exercise of any right, duty, obligation or function in terms of these Bylaws;
- (c) “Municipal Council” means the municipal council as referred to in section 157 of the Constitution 108 of 1996;
- (d) “Municipal Manager” means the person appointed by the Municipal Council as the Municipal Manager of the Municipality in terms of section 82 of the Municipal Systems Act 32 of 2000 read with section 15 of the Local Government: Municipal Systems Amendment Act 7 of 2011 and includes any person-
  - (i) acting in such position; and
  - (ii) to whom the Municipal Manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

**“municipal services”** means provided by the Municipality or its authorised agent, including refuse removal, electricity services and rates or any one of the above;

**“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 the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

**“owner”** means-

- (a) the person in whom from time to time is vested the legal title to premises;
- (b) in case where the person in whom the legal title to premises is vested is insolvent or dead, 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 premises or a building thereon;
- (d) in the case of premises for which a lease agreement of 10 years or longer has been entered into, the lessee thereof;
- (e) in relation to-

- (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Title 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 Title 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
- (f) a person occupying land under a register held by a tribal authority;

**“person”** means any natural person, local government body or like authority, a company or close corporation incorporated under any law, a 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 the official languages determined by the municipal council-
  - (i) in the local newspaper or newspaper in the area of the municipality; or
  - (ii) in the newspaper or newspaper circulating in the area of the municipality determined by the Municipal Council as a newspaper of record; or
  - (iii) by means of radio broadcasts covering the area of the Municipality; or
- (b) displaying a notice at appropriate offices and pay-points of the Municipality or its authorised agent; or
- (c) communication with customers through public meetings and ward committee meetings;
- (d) via the municipal website.

**“subsidised service”** means a municipal service which is provided to a customer at an applicable rate which is less than the cost of actually providing the service including services provided to customers at no cost;

**“supply zone”** means an area, determined by the municipality or its authorised agent, within which all customers are provided with services from the same bulk supply connection; and



**“unauthorised services”** means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised or approved by the municipality or its authorised agent.

## **CHAPTER 2: DUTIES AND FUNCTIONS.**

### **1. Duties and functions of the Municipal Council**

The duties and functions of the Municipal Council are to:

1. Approve a budget consistent with the needs of communities, ratepayers and residents;
2. Impose rates and taxes and to determine service charges, fees and penalties to finance the budget;
3. Provide sufficient funds to give access to basic services for the poor;
4. Provide for bad debt, in line with the payment record of the community, ratepayers and residents, as reflected in the financial statements of the Municipality;
5. Set an improvement target for debt collection, in line with acceptable accounting ratios and the abilities of the Municipal Manager;
6. Approve a reporting framework for credit control and debt collection;
7. Consider and approve Bylaws to give effect to the Council's policy;
8. Monitor the performance of the Executive Committee and the Municipal Manager regarding credit control and debt collection;
9. Revise the budget should council's targets for credit control and debt collection not be met;
10. Take disciplinary action against officials who do not execute Council policies and Bylaws;
11. Approve a list of attorneys that will act for Council in all legal matters relating to debt collection;
12. Delegate the required authorities to monitor and execute the credit control and debt collection policy to the Executive Committee and the Municipal Manager, respectively;
13. Approve an appropriate staff structure for credit control and debt collection;
14. Provide funds for the training of staff; and

15. Appoint debt collection agents to assist the Municipal Manager in the execution of his/her duties, if required.

## **2. Duties and functions of the Executive Committee**

The duties and functions of the Executive committee are to:

1. Ensure that the Council's budget, cash flow and targets for the debt collection are met and executed in terms of the policy and relevant bylaws;
2. Monitor the performance of the Municipal Manager in implementing the policy and Bylaws;
3. Review and evaluate the policy and Bylaws in order to improve the efficiency of the Council's credit control and debt collection procedures, mechanisms and processes; and
4. report to the Council.

## **3. Duties and functions of the Municipal Manager**

Duties and functions of the Municipal Manager are to:

1. Implement good customer care management;
2. Implement the Council's credit control and debt collection policy;
3. Install and maintain an appropriate accounting system;
4. Bill and deliver accurate accounts to consumers;
5. Demand payment on due date;
6. Raise penalties for defaults;
7. Appropriate payment received;
8. Collect outstanding debt;
9. Identify and arrange training necessary for staff;
10. Provide for different payment methods;
11. Determine credit control measures;
12. Determine work procedures for public relations, arrangements, disconnections of services, summonses, attachments of assets, sales in execution, writing off of debts, sundry debtors, and legal processes;

13. Appoint firm/s of attorneys to complete the legal process (i.e. attachments and sales in execution of assets, emolument attachment orders etc.);
14. Set performance targets for staff;
15. Appoint staff to execute the Council's policy and Bylaws in accordance with the Council's staff policy;
16. Delegate certain functions heads of departments;
17. Monitor contracts with Service Providers in connection with credit control and debt collection;
18. Determine control procedures; and
19. Report to the Executive Committee.

#### **4. Duties and functions of Communities, Ratepayers and Residents**

Duties and functions of communities, ratepayers and residents are to:

1. Fulfil certain responsibilities, as brought about by the privilege to use and enjoy public facilities and municipal services;
2. Pay service fees, rates on property and other taxes, levies and duties imposed by the Municipality;
3. Observe the mechanisms and processes of the Municipality in exercising their rights;
4. Allow municipal officials reasonable access to their property to execute municipal functions;
5. Comply with the Bylaws and other legislation of the Municipality;
6. Refrain from tampering with municipal services and property; and
7. Report tampering and any illegal connection to the municipality.

#### **5. Duties and functions of Ward Councillors and Political Parties**

The duties and functions of ward councillors and political parties are to:

1. Hold regular ward meetings;
2. Adhere to and convey the council's policies to residents and ratepayers; and
3. Adhere to Council's Code of Conduct for councillors.

## **CHAPTER 3: PROVISION OF MUNICIPAL SERVICES TO CUSTOMERS OTHER THAN INDIGENT CUSTOMERS**

### **6. Part 1: Application for Municipal Services**

#### **6.1 Application for services**

1. A customer wanting to qualify as an indigent customer must apply for services as set out in Chapter 5 below.
2. No person shall be entitled to access to municipal services unless application has been made to, and approved by, the Municipality or its authorised agent on the prescribed form attached as Annexure A to these Bylaws.
3. 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 –
  4. an agreement in terms of subsection (7) exists; and
  5. the level of services provided to that customer are the level of services elected until such time as the customer enters an agreement in terms of subsection (2).
6. The Municipality or its authorised agent must on application for the provision of municipal services inform the applicant of the then available
7. levels of services and the then applicable tariffs and/or charges associated with each level of service.
8. The Municipality or its authorised agent is only obliged to provide a specific level of service requested if the service is currently being provided and if the Municipality or authorised agent has the resources and capacity to provide such level of service.
9. A customer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such requested level of service is available and that the customer pays any costs and expenditure associated with altering the level of services.
10. 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.

11. 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.
12. 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.
13. Municipal services rendered to a customer are subject to the provisions of these bylaws, any applicable bylaws and the conditions contained in the agreement.
14. 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 of service on date requested for such provision to commence; or
  - c. is unable to render the municipal services or a specific service or level service;

The municipality or its authorised agent must, within a reasonable time 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.

## **7. Special Agreements for Municipal Services.**

1. The Municipality or its authorised agent may enter into a special agreement for the provision of municipal services with an applicant –
  - a. within the area of supply, if the services applied for necessitate the imposition of conditions not contained in the prescribed form or these Bylaws;
  - b. receiving subsidised services; and
  - c. 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.

## **8. 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.

## **9. Part 2: Applicable Charges**

### **9.1 Applicable Charges for Municipal Services**

1. All applicable charges payable in respect of municipal services, including but not limited to the payment of connection charges, fixed charges or additional charges or interest will be set by the Municipal Council in accordance with-
  - a. its rates and tariff policy;
  - b. its credit control and debt collection policy;
  - c. any Bylaws in respect thereof; and
  - d. any regulations in terms of nation or provincial legislation.
2. Applicable charges may differ between different categories of customers, users of services, types and levels of services, quantities of services, infrastructure requirements and geographic areas.
3. Services will be terminated due to non-payment on the terms and conditions as stipulated in the credit control and debt collection policy.
4. Deferment for payment of service accounts can be granted to consumers in terms of the Council's delegated powers and conditions approved in its credit control and debt collection policy.
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 and order of preference as determined by council from time in its credit control and debt collection policy.

## **10. Availability Charges for Municipal Services**

The Municipal Council may, in addition to the tariffs of charges prescribed for municipal services actually provided, 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.

## **11. Subsidised Services**

1. The Municipal Council 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.
2. The Municipal Council may, in implementing subsidies, differentiate between types of household customers, types and levels of services, quantities of services, geographical areas and socio-economic areas.
3. Public notice in terms of subsection (1) must contain at least the following details applicable to a specific subsidy:
  - a. The household customers that 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 that will apply to the subsidy.
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 a refund 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.
5. A subsidy implemented in terms of subsection (1) may at any time, after reasonable notice, be withdrawn or altered in the sole discretion of the Municipal Council.
6. Commercial customers may not qualify for subsidised services.
7. Subsidised services shall be funded from the portion of revenue raised nationally that 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.

## **12. Authority to Recover Additional Costs and Fees**

1. 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 –
  - a. all legal costs, including attorney-own-client-costs incurred in the recovery of amounts in arrears, shall be against the arrears account of the customer and/or;
  - b. the average costs incurred relating to any action taken in demanding payment from the customer or reminding the customer, by means of telephone, e-mail, letter or otherwise.

## **13. Part 3: Payment**

### **13.1 Payment of Deposit**

1. The Municipal Council may, from time to time, determine different deposits to be paid for different categories of customers, users of services, debtors, services and service standards, provided that the deposit will generally not be more than two and half times the monetary value of the most recent consolidated accounts of the premises for which an application is made.
2. A customer must, on application for the provision of municipal services and before the Municipality or its authorised agent will provide such services, pay a deposit, if the Municipal council has determined a deposit.
3. The Municipality or its authorised agent may review a deposit paid in terms of subsection (2) and in accordance with such review require that the customer deposit an additional amount where the deposit is less than the most recent deposit determined by the Municipal council.
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, if the Municipal Council has determined a deposit; and
  - b. pay an additional deposit where the deposit paid by that customer is less than the most recent deposit determined by the Municipal Council.



5. Subject to subsection (7), the deposit shall not be regarded as being in payment or part payment of an account.
6. No interest shall be payable by the Municipality or its authorised agent on any deposit held.
7. The deposit, if any, is refundable to the customer on termination of the agreement. A deposit shall be forfeited to the Municipality if the customer has not claimed it within 12 (twelve) months of termination of agreement. **In the event of the customer owing any arrears on any account with the municipality, the deposit is utilised to redeem any such arrears; and a new agreement concluded and a new deposit will have to be paid.**

#### **14. Methods for determining amounts due and payable**

1. The Municipality or its authorised agent must in respect of municipal services that can be metered, endeavour to, within available financial and human resources, meter all customer connections and/or read all metered customer connections, on a regular basis, subject to subsection (2).
2. If a service is not measures, the municipality or its authorised agent may, notwithstanding subsection (1), determine the amount due and payable by a customer for municipal services supplied to him, her or it, by calculating the –
  - a. the shared consumption, or if not possible
  - b. the estimated consumption.
3. If a service is metered, but it cannot be read due to financial and human resource 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 articulate the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment.
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 metered customer connections within a determined area, the Municipal Council may, on the recommendation 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.

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 that will apply in respect of their consumption or supply zones.

## **15. Payment for municipal services provided**

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 it.
2. If a customer uses municipal services for a use other than for which it is provided by the Municipality or its authorised agent in terms of an agreement and as consequences is charges at a charge lower than the applicable charge, the Municipality or its authorised agent may make an adjustment of the amount charged and recover the balance from the customer.
3. If amendments to the applicable charge become operative on a date between measurements for the purpose of rendering and account in respect of the applicable charges –
  - 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
  - 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.

## **16. Full and Final Settlement of an Account**

1. Where an account is not settled in full, any lesser amount tendered to and accepted shall not be deemed to be in final settlement of such an account.
2. Subsection (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.

## **17. Responsibility for Amounts Due and Payable**

Where the owner is not the customer and the Municipality or its authorised agent after taking reasonable measures to recover any amounts due and payable from the customer, could not recover such amounts, the owner of the premises shall be liable for the payment of any amounts due and payable to the Municipality or its authorised representative in respect of the preceding two years, notwithstanding the provisions of any other sections of these Bylaws.

## **18. Dishonoured Payments**

1. 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. may recover the average bank charges incurred relating to dishonoured negotiable instrument against the account of the customer; and
  - b. shall regard such an event as default on payment.

## **19. Incentive Schemes**

1. The Municipal Council may institute incentive schemes to encourage prompt payment and to reward customers who pay accounts on a regular and timeous basis.
2. Such incentives schemes, if introduced, will be reflected in annual budgets as additional expenditure.

## **20. Pay-points and Approved Agents**

1. A customer must pay his/her or its account at pay-points specified by the Municipality or its authorised agent from time to time, or at approved agents of the Municipality or its authorised agent.
2. The Municipality or its authorised agent must inform a customer of the location of specified pay-points and approved agents for payment of accounts.

## **21. Part 4: Accounts**

### **21.1 Accounts**

1. Accounts will 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.
2. Failure to receive or accept an account does not relieve a customer of the obligation to pay any amount due and payable.
3. The Municipality or its authorised agent must, if administratively possible, issue a duplicate account to a customer on request.
4. Accounts must be paid not later than the last date for payment specified in such account, which date will be at least 7 (seven) days after the date of the account.
  - a. Accounts will at least reflect –
    - i. the services rendered;
    - ii. the consumption of metered services or average, shared or estimated consumption;
    - iii. the period addressed in the account;
    - iv. the applicable charges;
    - v. the amount due (excluding value added tax payable);
    - vi. value added tax;
    - vii. any subsidies;
    - viii. the adjustment, if any, to metered consumption which has been previously estimated;
    - ix. the arrears, if any;
    - x. the interest payable on arrears, if any;
    - xi. the final date for payment;
    - xii. the methods, places and approved agents where payment may be made; and
  - b. State that –
    - i. the customer may conclude an agreement with the Municipality or its authorised agent for payment of the arrear amount in instalments, at the Municipality or its authorised agent's offices before the final date for payment, if a customer is unable to pay the full amount due and payable;

- ii. if no such agreement is entered into, the Municipality or its authorised agent will limit the services after sending a final demand notice to the customer;
  - iii. legal action may be instituted against any customer for the recovery of any amount 60 (sixty) days in arrears;
  - iv. the account may be handed over to a debt collector for collection; and
- 5. proof of registration as an indigent customer, in terms of the Municipality or its authorised agent's indigent policy must be handed in at the offices of the Municipality or its authorised agent before the final date for payment.

## **22. Consolidated Debt**

1. If one account is rendered for more than one municipal service provided, the amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will be allocated at the discretion of the Municipality between service debts.
2. If an 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.
3. A customer may not elect how an account is to be settled if it is not settled in full or if there are arrears.

## **23. Part 5: Queries, Complaints and Appeals**

### **23.1 Queries or Complaint in Respect of an Account**

1. A customer may lodge a query or complaint in respect of an accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
2. A query or complaint must be lodged with the municipality or its authorised agent before the due date for payment of the account.
3. A query or complaint must be accompanied by the payment of the average of the last three months' 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.

4. The municipality or its authorised agent will register the query or complaint and provide the customer with a reference number.
5. The Municipality or its authorised agent –
  - a. shall investigate or cause the query or complaint to be investigated; and
  - b. must inform the customer in writing, of its finding within one month after the query or complaint was registered.
6. Failure to make such agreed interim payment would make the customer liable for disconnection.

#### **24. Appeals Against Finding of the Municipality or its Authorised Agent in Respect of Queries or Complaints**

1. A customer may appeal against a finding of the Municipality or its authorised agent in terms of section 28 in writing.
2. An appeal and request in terms of subsection (1) must be made in writing and lodged with the Municipality within 21 (twenty-one) days after the customer became aware of the finding referred to in section 24 and must –
  - a. set out the reasons for the appeal; and
  - b. be accompanied by any security determined for the testing of a measuring device, if applicable.

#### **25. Part 6: Arrears**

##### **25.1 Interest**

1. Interest will be levied on arrears at the prevailing prime interest rate or at a rate prescribed by the Municipal Council from time to time.
2. The costs associated with the limitation or disconnection of municipal services shall be for the cost of the customer and shall be included in the account following the reconnection.

#### **26. Account 60 days in Arrears**

1. Where an account rendered to a customer remains outstanding for more than 60 (sixty) days, the Municipality or its authorised agent may –
  - a. institute legal action against a customer for the recovery of the arrears; and

- b. hand the customer's account over to a debt collector or an attorney for collection.
2. A customer will be liable for any administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of higher deposit, as may be determined by the Municipal Council from time to time.

## **27. Part 7: Agreement for the Payment of Arrears in Instalments**

### **27.1 Agreements**

1. The following agreements for the payment of arrears in instalments may be entered into:
  - a. An acknowledgement of indebtedness.
  - b. A consent to judgement.
  - c. An emolument attachment order.
2. The customer shall acknowledge that interest will be charged at the prescribed rate.
3. Customers with electricity arrears must agree to the conversion to a prepayment meter if and when implementable, the cost of which, and the total, will be paid off either by-
  - a. adding it to the arrears account and repaying it over the agreed period; or
  - b. adding it as a surcharge to the prepaid electricity cost, and repaying it with each purchase of electricity until the debt is liquidated.
4. The Municipality or its authorised agent must require a customer to pay at least its current account on entering into an agreement for the payment of arrears in instalments.
5. The Municipality reserves the right to raise the security deposit requirement of debtors who seek arrangements.

## **28. Copy of Agreement to Customer**

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

## **29. Failure to Honour Agreements**

1. If a customer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest

thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable, without further notice or correspondence and the municipality or its authorised agent may –

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

### **30.Reconnection of Services**

1. An agreement for payment of the arrear amount in instalments, entered into after the electricity service was discontinued, will not result in the services being restored until - the arrears, any interest thereon, administration fees, costs incurred in taking relevant action and any penalties, including payment of a higher deposit, are paid in full.
2. In addition to any payments referred to in subsection (1), the customer shall pay the standard reconnection fee as determined by the Municipality from time to time, prior to the re-connection of municipal services by the municipality or its authorised agent.

## **CHAPTER 4: ASSESSMENT RATES**

### **31.Amount due for Assessment Rates**

1. The provisions of Chapter 3 apply in respect of the recovery of assessment rates.
2. All assessment rates due by owners are payable by a fixed date as determined by the Municipality in its credit control and debt collection policy.
3. Joint owners of property shall be jointly and severally liable for payment of assessment rates.
4. Assessment rates will be levied in equal monthly instalments. When levied in equal monthly instalments, the amount payable will be included in the municipal account.
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 owners thereof; and/or
  - b. the municipal account is registered in the name of a person other than the owner of the property.



## **CHAPTER 5: PROVISION OF MUNICIPAL SERVICES TO INDIGENT CUSTOMERS**

### **32. Qualification for Registration as an Indigent Customer**

1. All households where the combined gross income of all the members of the household over the age of 18 years old is less than two times the State pension qualify for registration as indigent customers.
2. No household will qualify as an indigent customer if the residents jointly or severally own more than one property.

### **33. Application for Registration**

1. A household wishing to qualify as an indigent customer must complete the application form entitled “Application for Registration as an Indigent Customer” which may be obtained at the Municipality’s offices.
2. Any application in terms of subsection (1) must be accompanied by –
  - a. documentary proof of income, such as letter from the customer’s 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 over the age of 18 years who are resident at the property.
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.
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 the customer indicated that the content of the declaration was understood.

### **34. Approval of Application**

1. The Municipality or its authorised agent may send authorised representatives to premises or household applying for registration as indigent customers to conduct an on-site audit of information provided prior to an application.
2. An application shall be approved for a period of 12 (twelve) months only. Subsidies will be forfeited if the applicant fails to submit proof of income or to re-apply for the subsidy.

### **35. Conditions**

The Municipality or its authorised agent may on 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.

### **36. Application every 12(twelve) months**

1. An indigent customer must re-apply for registration every 12(twelve) months as an indigent customer, failing which the assistance will cease automatically.
2. The Municipality or its authorised agent give no guarantee of renewal.

### **37. Subsidised Services for Indigent Customers**

1. The Municipal Council may annually, as part of its budgetary process, determine the municipal services and levels thereof that will be subsidised in respect of indigent customers in accordance with national policy, but subject to principles of sustainability and affordability.
2. The Municipal Council will, in the determination of municipal services that will be subsidised for indigent customers, give preference to subsidising at least:
  - a. Refuse removal services to a maximum of one removal per household per week;
  - b. Rates levied on a property in accordance with the value of the property;

- c. A limited supply of electricity as determined in the Customer Care, Credit Control and Debt Collection Policy of the Municipality.
3. The Municipality must, on a determination in terms of subsection (1) give public notice of such determination.
4. Public notice in terms of subsection (3) must contain at least the following:
  - a. The level or quantity of municipal service that will be subsidised.
  - b. The level of subsidy.
  - c. The method of calculating the subsidy.
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.
6. The provisions of Chapter 3 shall *mutatis mutandis* apply to the amounts due and payable in terms of subsection (5).

### **38. Funding of Subsidised Services**

1. The subsidised services referred to in section 38 shall be funded from the portion of revenue raised nationally that 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, provided that the shortfall is provided in the normal budget process.
2. The subsidy amount to be funded from revenue raised nationally that is allocated to the Municipality shall be calculated by dividing the amount allocated by the estimated number of customers that may qualify for registration as indigent customers.

### **39. Existing Arrears of Indigent Customers on Approval of Application**

1. Arrears accumulated in respect of the municipal accounts of customers prior to registration as indigent customers will be either –
  - a. written off;
  - b. applied as a surcharge to prepaid electricity coupons; or
  - c. recovered through legal proceedings and/or extended term arrangements.

#### **40. Audits**

1. The Municipality may undertake regular random audits carried out by the itself or its authorised agent to –
  - a. verify the information provided by indigent customers;
  - b. record any changes in the circumstances of indigent customers; and
  - c. make recommendations on the de-registration of the indigent customer.

#### **41. De-Registration**

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.
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 meets the qualifications as set out above.
3. An indigent customer shall automatically be de-registered if a renewal application is not made or if such application is not approved.
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 meets the qualifications set out above.
5. An indigent customer may at any time request de-registration.

### **CHAPTER 6: BUSINESS WHO TENDER TO THE MUNICIPALITY**

#### **42. Procurement Policy and Tender Conditions**

1. The procurement policy and tender conditions provide the following: 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 Municipality a certificate stating that all relevant municipal 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 payment of any arrears.
2. A municipal account to mean any municipal service charge, tax or other fees, fines and penalties, due in terms of a contract or approved tariff or rate, which is outstanding after the due date normally appearing on the consolidated account or overdue in terms of the contract or any other due date that has passed.
  3. Tender conditions contain a condition allowing the Municipality to deduct moneys owing to the municipality from contract payments in terms of a reasonable arrangement with the debtor.

## **CHAPTER 7: UNAUTHORISED SERVICES**

### **43.Unauthorised Services**

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.
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 Part 1 of Chapter 3;
  - b. undertake such work as may be necessary to ensure that the customer installation through which access was gained complies with the provisions of these or any other relevant Bylaws.

### **44.Interference with Infrastructure for the Provision of Municipal Services**

1. No person other than the Municipality or its authorised agent shall manage, operate or maintain infrastructure through which municipal services are provided.
2. No person other than the Municipality or its authorised agent shall effect a connection to infrastructure through which municipal services are provided.

#### **45.Obstruction of Access to Infrastructure for the Provision of Municipal Services**

1. No person shall prevent or restrict physical access to infrastructure through which municipal services are provided.
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 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.

#### **46.Illegal Reconnection**

1. A person who unlawfully and intentionally or negligently reconnects to services or unlawfully and intentionally or negligently interferes with infrastructure through which municipal services are provided, after such customer's access to municipal services have been limited or disconnected shall immediately be disconnected.
2. A person who reconnects to municipal services in the circumstance referred to in subsection (1) shall be liable for the cost associated with any consumption, notwithstanding any other actions that may be taken against such a person.

#### **47.Immediate Disconnection**

1. The provision of municipal services may immediately be disconnected if any person –
  - a. unlawfully and intentionally or negligently interferes with infrastructure through which the municipality or its authorised agent provides municipal services; or
  - b. fails to provide information or provides false information reasonably requested by the municipality or its authorised agent.

## **CHAPTER 8: OFFENCES**

### **48. Offences**

1. Any person who-
  - a. fails to give access required by the municipality or its authorised agent terms of these Bylaws;
  - b. assists any person in providing false or fraudulent information or assists in wilfully concealing information;
  - c. uses, tampers or interferes with municipal equipment, service supply equipment and reticulation network or consumption of services rendered;
  - d. 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;
  - e. contravenes or fails to comply with a provision of these Bylaws;
  - f. fails to comply with the terms of a notice served upon him in terms of these Bylaws, shall be guilty of an offence and liable upon conviction to a period not exceeding six months' imprisonment or community service or a fine not exceeding R 6 000.00, or a combination of the aforementioned.

## **CHAPTER 9: DOCUMENTATION**

### **49. Signing of Notices and Documents**

A notice or document issued by the municipality in terms of these Bylaws and signed by an authorised 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 as evidence of that fact.

### **50. Notice and Documents**

1. A notice or document issued by the Municipality or its authorised agent in terms of these Bylaws shall be deemed to be duly authorised if an authorised agent signs it.

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 village, place of residence, or business or employment in the Republic with a person apparently over the age of sixteen years;
  - c. when it has been posted by registered or certified mail to that person's last known residential address or business address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
  - d. if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic the manner provided in subsections (a)-(c); or
  - e. 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.
3. 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.

## **51. 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 a bylaw.

## **52. 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.

## **CHAPTER 10: GENERAL PROVISIONS**

### **53. Power of Entry and Inspection**

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 written notice to the occupier of the premises of the intention to do so.

### **54. Exemption**

1. The Municipality may, in writing, 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 or 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.

### **55. Availability of By-Laws**

1. A copy of these Bylaws shall be included in the Municipality's Municipal Code as required in terms of legislation.
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.
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 times.
4. A copy of the Bylaws may be obtained against payment of R 100.00 from the Municipality or its authorised agent.

## **56. Conflict of Law**

1. When interpreting a provision of these Bylaws, any reasonable interpretation that 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.
2. If there is any conflict between these Bylaws and any other Bylaws of the Council, these Bylaws will prevail.

## **57. Repeal of Existing Municipal Credit Control By-Laws**

The provisions of any Bylaws relating to the control of credit by the municipality are hereby repealed insofar as they relate to matters provided for in these bylaws, provided that such provisions shall be deemed not to have been repealed in respect of any such bylaw which has not been repealed and which is not repugnant to these Bylaws on the basis as determined by the relevant Bylaws.

## **58. Short Title and Commencement**

1. These Bylaws are called the Credit Control and Debt Collection By-Laws of the Alfred Duma Local Municipality.
2. The Municipality may, by notice in the *Provincial Gazette*, determine that the provisions of these Bylaws, listed in the notice, do not apply.
3. Until any notice contemplated in subsection (2) is issued, these Bylaws are binding.
4. Commencement of these By-Laws is from date of publication hereof.