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| **INXUBA YETHEMBA LOCAL MUNICIPALITY** |
| **DRAFT BY-LAW RELATING TO MUNICIPAL TARIFFS** |
| **2020/21 FINANCIAL YEAR** |
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|  **COUNCIL APPROVED:**  **COUNCIL RESOLUTION NO: PROVINCIAL GAZETTE:** |
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# PREAMBLE

* Section 229(1) of the [Constitution](https://openbylaws.org.za/za-cpt/act/by-law/2007/tariff/%22%20%5Cl%20%22term-Constitution) authorises a municipality to impose:
	1. Rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
	2. If authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government into which that municipality falls.
* In terms of section 75A of the Local Government: Municipal [Systems Act](https://openbylaws.org.za/za-cpt/act/by-law/2007/tariff/%22%20%5Cl%20%22term-Systems_Act) a municipality may:
	1. levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
	2. recover collection charges and interest on any outstanding amount.
* In terms of section 74(1) of the  Local Government: Municipal [Systems Act](https://openbylaws.org.za/za-cpt/act/by-law/2007/tariff/%22%20%5Cl%20%22term-Systems_Act), a municipal council must adopt and implement a [tariff](https://openbylaws.org.za/za-cpt/act/by-law/2007/tariff/%22%20%5Cl%20%22term-tariff) policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements and which complies with the provisions of the Local Government: [Systems Act](https://openbylaws.org.za/za-cpt/act/by-law/2007/tariff/%22%20%5Cl%20%22term-Systems_Act), the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.
* In terms of section 75(1) of the Local Government: Municipal [Systems Act](https://openbylaws.org.za/za-cpt/act/by-law/2007/tariff/%22%20%5Cl%20%22term-Systems_Act), a municipal council must adopt by-laws to give effect to the implementation and enforcement of its [tariff](https://openbylaws.org.za/za-cpt/act/by-law/2007/tariff/%22%20%5Cl%20%22term-tariff) policy.
* In terms of section 75(2) of the Local Government: Municipal [Systems Act](https://openbylaws.org.za/za-cpt/act/by-law/2007/tariff/#term-Systems_Act), by-laws adopted in terms of subsection 75(1) may differentiate between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.
* In furtherance of reusable energy, Council may determine tariffs pertinent to the purchase of surplus energy from consumers, subject to regulations issued and approved by the National Electricity Regulator of South Africa (NERSA).
* The Municipal Council of the Inxuba Yethemba Local Municipality, acting in terms of section 156 of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), hereby adopts the following By-Law:

# 2. DEFINITIONS

**“Constitution”** means the Constitution of the Republic of South Africa.

**“Council”** means the Council of the Municipality.

**“Credit Control and Debt collection By-Law and Policy”** means the municipal Credit Control and Debt Collection By-Law and Policy adopted by the municipal Council as required by section 96(b), 97 and 98 of the Municipal Systems Act;

“**Municipality**” means the Inxuba Yethemba Local Municipality (EC131).

 **“Municipal Finance Management Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), as amended from time to time;

 **“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;

**“Tariff”** means fees and charges levied by the municipality in respect of any function or service provided by the municipality to the local community and includes a surcharge on such tariff but excludes the levying of rates by the municipality in terms of the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004).

**“Tariff Policy”** means a [tariff](https://openbylaws.org.za/za-cpt/act/by-law/2007/tariff/%22%20%5Cl%20%22term-tariff) policy adopted by the municipal council in terms of this By-law

 **“Tariff List” or “Tariff Schedule”** means the list of the Tariffs applicable and in respect of any function or service provided, or surplus energy purchased, by the Municipality including rates levied by the Municipality in terms of the Local Government: Property Rates Act, (Act 6 of 2004).

# 3. OBJECTS

The object of this By-law is to give effect to the implementation of the Tariff Policy as contemplated in Section 74(1) of the Systems Act, and of the Tariff Schedule for a given financial year as approved by Council during the Municipality’s annual budget process.

# 4. ADOPTION AND IMPLEMENTATION OF TARIFF POLICY

* 1. The municipality shall adopt and implement a tariff policy on the levying of fees for municipal services provided by the municipality itself or by way of service delivery agreements and which complies with the provisions of the Municipal Systems Act, the Municipal Finance Management Act and any other applicable legislation.
	2. The municipality shall not be entitled to impose tariffs other than in terms of a valid tariff policy.

# 5. GENERAL POWER TO LEVY AND RECOVER FEES, CHARGES AND TARIFFS

The municipality has the power to:

* + 1. Levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
		2. Recover collection charges and interest on any outstanding amount.
		3. Fees, charges and tariffs referred to in subsection 1(a) are levied by resolution passed by the municipal council with a supporting vote of the majority of its members.
	1. After a resolution contemplated in terms of subsection 1(c) has been passed, the Municipal manager must, with no delay-
1. Conspicuously display a copy of the resolution for a period of at least 30 days at the Municipal Offices and at such other places within the municipality to which the public has access as the Municipal manager may determine;
2. Publish in a newspaper of general circulation in the municipality a notice stating-
	1. That a resolution as contemplated in subsection 1(c) has been passed by Council;
	2. That a copy of the resolution is available for public inspection during office hours at the Municipal Offices and at the other places specified in the notice; and
	3. The date on which the determination will come into operation; and
3. Seek to convey the information referred to in paragraph 3 to the local community by means of radio broadcasts covering the area of the municipality.
4. The municipal manager must forthwith send a copy of the notice referred to in paragraph 3 to the MEC for local government concerned.

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The municipality may, subject to the provisions of the Customer Care, Credit control and Debt Collection By-law, have the right to recover any amount due for the consumption of services in terms of this By-law from the owner of the property, where a tenant or other occupier of such property fails to do so.

# 6. CONTENTS OF TARIFF POLICY

The Municipality's Tariff Policy shall, inter alia:

(1) Apply to all the tariffs fees (as per the Tariff List) imposed by the Municipality pursuant to the adoption of the Municipality's annual budget.

(2) Reflect the principles referred to in section 74(2) of the Systems Act and specify any further principles for the imposition of Tariffs which the Municipality may wish to adopt.

(3) Specify the manner in which the principles referred to in paragraph 6(2) above are to be implemented in terms of the Tariff Policy.

(4) Specify the basis of differentiation, if any, for tariff purposes between the different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.

(5) Include such further enforcement mechanism, if any, as the Municipality may wish to impose in addition to those contained in the Credit Control and Debt Collection Policy.

(6) Provide tariffs for the export of surplus energy from approved and certified consumers, within the jurisdiction of the Municipality, into the Municipality’s distribution network.

# 7. ENFORCEMENT OF TARIFF POLICY

The Tariff Policy shall be enforced through the Credit Control and Debt Collection Policy and any further enforcement mechanisms stipulated in the Municipality’s Tariff Policy.

#  8. REPEAL OF BY-LAWS

The provisions of any by-laws relating to tariffs by the municipality are hereby repealed insofar as they relate to matters provided for in this by-law.

# 9. INTERPRETATION

If there is a conflict of interpretation between the English version of this By-Law and a translated version, the English version prevails.

#  10. SHORT TITLE AND COMMENCEMENT

This By-law is called the Inxuba Yethemba Local Municipality: Tariff By-law 2019, and takes effect on the date of the publication thereof in the Provincial Gazette or as otherwise indicated in the notice thereto.