

# **CITY OF MATLOSANA**

## **AMENDMENT OF MUNICIPAL TARIFF BY-LAW**

Notice is hereby given that the City of Matlosana passed the amendment of the Tariff By-Law after followed the procedure in terms of the provisions of sections 12 (2) and (3) of the Local Government Municipal Systems Act, 2000, as amended, and that the City of Matlosana in terms of section 13 (a) of the Local Government Municipal Systems Act, 2000, as amended, herewith publishes the Municipal Tariff By-Law for the attention of the local community.

The By-law will become effective in terms of Section 13 (b) of the Local Government: Municipal Systems Act, 2000, as amended, on the date of promulgation in the Provincial Gazette and is available on the Council's website [www.matlosana.gov.za](http://www.matlosana.gov.za)

PO Box 99  
Civic Centre  
**KLERKSDORP**

**TSR NKHUMISE**  
**MUNICIPAL MANAGER**

Notice: 33/2019

# THE CITY OF **MATLOSANA**



## **MUNICIPAL TARIFF BY-LAW**

## PREAMBLE

1. In terms of the provisions of the Constitution, section 229(1&2) of the Republic of South Africa, 1996 as amended (hereinafter referred to as “the Constitution”), and section 75A(1) of the Local Government: Municipal Systems Act, Act 32 of 2000 as amended (hereinafter referred to as “the Systems Act”), the City of Matlosana (hereinafter referred to as “the CoM”), is entitled to levy and recover fees, charges or tariffs in respect of any function or service of the CoM.
2. In terms of the provisions of section 74(1) of the Systems Act and the provisions of section 62(1)(f)(i) of the Local Government: Municipal Finance Management Act, Act 56 of 2003 (hereinafter referred to as “the MFMA”), the CoM has adopted a tariff policy on the levying of fees, charges or tariffs on municipal services provided by the CoM itself or by way of service delivery agreements.
3. This tariff policy adopted by the CoM reflects the principles referred to in terms of the provisions of section 74(2) of the Systems Act and addresses the matter referred to in terms of the provisions of section 74(3) of the same Act, as well as a schedule containing the municipal tariffs of the CoM pertaining to the municipal services as set out in the tariff policy.
4. The municipal tariffs as set out in the schedule of municipal tariffs annexed to the tariff policy must undergo annual revision and must be tabled together with the Multi-Year Annual Tabled Budget to the council of the CoM for consideration and approval thereof, subject to public participation and comments obtained annually before the 31<sup>st</sup> of March of each year in terms of the provisions of section 17(3)(a)(ii) read with the provisions of section 22 of the MFMA.
5. The adopted municipal tariffs apply to the Multi-Year Annual Budget in respect of a specific year during which the income is based on such adopted municipal tariffs, read with the general tariff principles contained in the tariff policy.
6. Should any of the municipal tariffs or general principles contained in the schedule setting out the municipal tariffs or tariff policy be changed by a

resolution of the CoM, an Adjustment Budget must be prepared to reflect the consequent effect of such resolution.

7. The CoM adopted a tariff policy and a schedule of municipal tariffs as referred to above and this by-law must be adopted by the CoM in terms of the provisions of section 75(1) of the Systems Act in order to give effect to the implementation and enforcement of the tariff policy.

# THE CITY OF MATLOSANA:

## TARIFF BY-LAW

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# CHAPTER 1: INTRODUCTORY PROVISIONS

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## 1. DEFINITIONS

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1.1. In this by-law, except where the context otherwise indicates or it is expressly stipulated otherwise, the following words and expressions shall have the respective meanings assigned to them hereunder and words or expressions to which a meaning has been assigned in terms of the Tariff Policy of the CoM and the provisions of section 1 of the Systems Act will have the corresponding meaning assigned thereto.

| NO.        | WORD/EXPRESSION                         | DEFINITION  |
|------------|---|---|
| <b>“C”</b> |   |   |
| 1.1.       | <b>“City of Matlosana” or<br/>“CoM”</b> | <p>Means the CITY OF MATLOSANA a local government and legal entity with full legal capacity as contemplated in section 2 of the MSA, read with the provisions of Chapter 7 of the Constitution of the Republic of South Africa and sections 12 and 14 of the Local Government: Municipal Structures Act, Act 117 of 1998, with its main place of business and the offices of the Municipal Manager, as envisaged in terms of the provisions of section 115(3) of the MSA, as amended, Bram Fisher Street, KLERKSDORP, NORTH WEST PROVINCE and includes:</p> <ul style="list-style-type: none"> <li>(a) its successor in title; or</li> <li>(b) a structural person exercising a delegated power or carrying out an instruction, in the event of any power being delegated as contemplated in terms of the provisions of section 59 of the Systems Act; or</li> <li>(c) in respect of ownership of property, rateability and liability for rates, a service provider fulfilling a responsibility assigned to it through a service delivery agreement.</li> </ul> |

|            |   |  |
|------------|---|--|
| 1.2.       | <b>“community services”</b>                                   | Means services which the CoM has classified as such, and in respect of which the tariffs have been calculated with the intention that the costs of the services cannot be recovered from public service charges, and are of a regulatory matter. . |
| 1.3.       | <b>“Constitution”</b>   | means the Constitution of the Republic of South Africa   |
| 1.4.       | <b>“council”</b>  | Means the municipal council of the CoM in which the executive and legislative authority of the CoM is vested and which is the decision making body of the CoM, its legal successors and its delegates.   |
| 1.5.       | <b>“Credit Control and Debt Collection By-Law and Policy”</b> | means the CoM’s Credit Control and Debt Collection By-Law and Policy as required by sections 96(b) and 98 of the Systems Act;  |
| <b>“E”</b> |   |  |
| 1.6.       | <b>“economic services”</b>                                    | Means services which the CoM has classified as such, in respect of which the tariffs have been calculated with the intention that the total costs of the services are recovered from users.  |
| <b>“F”</b> |   |  |
| 1.7.       | <b>“fixed costs”</b>  | Means costs, which do not vary with increased or decreased consumption or volume produced.   |
| <b>“S”</b> |   |  |
| 1.8.       | <b>“Systems Act”</b>  | Means the Local Government: Municipal Systems Act, Act 32 of 2000, as amended from time to time  |
| <b>“T”</b> |   |  |
| 1.9.       | <b>“the policy”</b>   | Means the Tariff Policy of the CoM.  |

|            |                           |   |
|------------|---------------------------|---|
| 1.10.      | <b>“Tariff”</b>           | means fees, charges, or any other tariffs levied by CoM in respect of any function or service provided by the municipality, excluding rates levied by the municipality in terms of the MPRA   |
| 1.11.      | <b>“Tariff Policy”</b>    | means a tariff policy adopted by the CoM in terms of this By-law  |
| 1.12.      | <b>“this by-law”</b>      | Means the Tariff By-Law of the CoM, as set out herein.  |
| 1.13.      | <b>“trading services”</b> | Means services which the CoM has classified as such, in respect of which the tariffs have been calculated with the intention that the COM makes a profit on the delivery of the services.   |
| 1.14.      | <b>“two-part tariffs”</b> | Means tariffs which are determined to cover the fixed and variable costs of a service respectively, where the fixed costs are calculated by dividing the total amount of fixed costs of the service by the number of customers per category, and the variable costs are calculated by dividing the total amount of variable costs by the volume consumed. |
| <b>“V”</b> |                           |   |
| 1.11.      | <b>“variable costs”</b>   | Means costs which vary with increased or decreased consumption or volume produced.  |

## **2. THE TARIFF POLICY ADOPTED BY THE COM**

- 2.1. The CoM has prepared and adopted a Tariff Policy as contemplated in terms of the provisions of section 74(1) of the Systems Act.
- 2.2. In the event of any contradiction and/or inconsistency between the provisions of the policy and this by-law, the provisions of this by law shall prevail.

## **3. OBJECTIVE OF THIS BY-LAW**

The objective of this by-law is to give effect to the CoM's Tariff Policy, its implementation and enforcement as required and in terms of the provisions of section



75(1) of the Systems Act. Without repeating the contents of the policy, the contents of the policy are hereby incorporated into this by-law and assigned the status of a by-law in as far as it is required for its implementation and enforcement.

#### **4. TITLE AND APPLICATION OF THIS BY-LAW**

- 4.1. This by-law is known as the Tariff By-Law of the City of Matlosana.
- 4.2. This by-law revokes all previous by-laws, decisions and/or *ad hoc* clauses within any other by-law regarding the subject matter of this by-law.

#### **5. COMMENCEMENT AND VALIDITY**

This by-law shall come into full force and effect upon publication hereof in accordance with the provisions of section 13 of the Systems Act.

#### **6. RESPONSIBLE AUTHORITY**

The responsible authority for the adoption, publication and implementation of this by-law is the CoM, and where applicable the council of the CoM.

## **CHAPTER 2: CLASSIFICATIONS AND GENERAL PROVISIONS**

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#### **7. GENERAL PROVISIONS FOR THE LEVYING OF TARIFFS**

- 7.1. Tariffs levied by the CoM for the provisions of services must be directly in proportion to the quantity of the service used or consumed by the user concerned, but subject always to a prescribed and fixed minimum availability tariff for the provisions of the service concerned and applicable to each category of property as provided in the Rates Policy of the CoM
- 7.2. The income of a user of services is irrelevant and will not be considered by the CoM in the allocation of tariffs as the allocation of tariffs do not constitute a tax, but correspond directly to the use and/or availability of the service to which

such tariff relate. Affordability of the tariff will be dealt with by the CoM on an individual basis and in terms of the Customer Care, Credit Control and Debt Collection and/or Rates Policy of the CoM.

- 7.3. The CoM may, in the levying of tariffs, generate and maintain a minimum monetary operating surplus of 10%, but which may not exceed a limit that results in the cost of a service to become unaffordable to the users thereof.
- 7.4. In necessary and justifiable circumstances the CoM may levy a surcharge on a tariff in order to provide for breakdowns in service infrastructure and/or intervals which require a restriction on the use or consumption of a specific service.
- 7.5. The CoM may, in order to discourage exorbitant use or consumption of services, impose a penalty on users for unreasonably high use or consumption of services, or other measures in order to achieve the same result.
- 7.6. The extent and source of all subsidisations in respect of services as well as the true cost of the service must be disclosed by the CoM and contained in its annual budget, annual financial statements and annual report.

## **8. DIFFERENT CATEGORIES AND GENERAL PRINCIPLES**

- 8.1. Section 75(2) of the Systems Act allows for the differentiation between different categories of users, debtors, service providers, services, service standards, geographical areas as long as the differentiation does not amount to unfair discrimination.
- 8.2. The CoM differentiates between the following categories for the purposes of levying tariffs:
  - 8.2.1. Domestic;
  - 8.2.2. Commercial/Business;
  - 8.2.3. Industrial;
  - 8.2.4. Agricultural;
  - 8.2.5. Institutional; and
  - 8.2.6. Rural.
  - 8.2.7. Domestic Indigent

8.3. The CoM differentiates between the following services for the levying of tariffs:

8.3.1. Trading Services:

8.3.1.1. Electricity; and

8.3.1.2. Water;

8.3.2. Economic Services:

8.3.2.1. Recreation resorts; and

8.3.2.2. Refuse removal;

8.3.2.3. Sewerage;

8.3.3. Community Services:

8.3.3.1. Air Pollution;

8.3.3.2. Building control;

8.3.3.3. Cemeteries;

8.3.3.4. Child care facilities;

8.3.3.5. Control of public nuisances;

8.3.3.6. Control of undertakings that sell liquor to the public;

8.3.3.7. Fencing and fences;

8.3.3.8. Firefighting and emergency assistance;

8.3.3.9. Fixed billboards and the display of advertisements in public places;

8.3.3.10. Licensing and control of undertakings that sell food to the public;

8.3.3.11. Licensing of dogs;

8.3.3.12. Local amenities;

8.3.3.13. Local sport facilities;

8.3.3.14. Local tourism;

8.3.3.15. Local economic development;

8.3.3.16. Municipal parks and recreation;

- 8.3.3.17. Municipal planning;
- 8.3.3.18. Municipal public works, only in respect of the needs of the municipality in the discharge of their responsibilities and to administer functions specially assigned to them under the Constitution or any other law;
- 8.3.3.19. Municipal roads;
- 8.3.3.20. Noise pollution;
- 8.3.3.21. Parking;
- 8.3.3.22. Pest control;
- 8.3.3.23. Pounds;
- 8.3.3.24. Public places;
- 8.3.3.25. Storm water management system in built-up areas;
- 8.3.3.26. Street lighting;
- 8.3.3.27. Street trading;
- 8.3.3.28. Trading regulations; and
- 8.3.3.29. Traffic;
- 8.3.4. Subsidized Services:
  - 8.3.4.1. Libraries;
  - 8.3.4.2. Primary health care; and
  - 8.3.4.3. Proclaimed roads.
- 8.3.5. Sundry Services
  - 8.3.5.1. Tax clearances certificates / Valuation certificates
  - 8.3.5.2. Copy of Valuation roll
  - 8.3.5.3. Confirmation of Residential address letters
  - 8.3.5.4. Duplicate rates and service
  - 8.3.5.5. Facilities for accommodation
  - 8.3.5.6. Care and burial of animals

- 8.4. The CoM differentiates between the following cost elements for the levying of tariffs:
- 8.4.1. Fixed costs that consist of the capital cost (depreciation on assets and capital redemption on external loans only) and any other costs of a permanent nature as determined by the council from time to time.
  - 8.4.2. Variable costs, which includes all other expenditure that has reference to the services; and
  - 8.4.3. Total cost is equal to the fixed costs plus variable cost.
- 8.5. The CoM differentiates between different types of tariffs applicable to each type of service as referred to and set out in the schedule of municipal tariffs, and the following options, or a combination thereof, will be used to determine the type of tariff applicable to the type of service:
- 8.5.1. Single tariff: this tariff shall consist of a fixed cost per unit consumed. All costs will be recovered through unit charges at a break-even level of consumption. A surplus on trading services may only be allowed with the approval of council;
  - 8.5.2. Cost related two-part tariff: this tariff consists of management, capital, maintenance and operating costs which are grouped together and recovered by a fixed charge irrespective of the consumption thereof by any class of consumer , and a variable cost which is recovered by a unit charge, per unit consumed;
  - 8.5.3. Inclining block tariff: this tariff is based on consumption levels being categorised into blocks, which tariff increases in accordance with the increase of consumption levels. This tariff is utilised in order to prevent exorbitant use of a commodity. The first portion of the tariff will be calculated at the break-even level, and subsequent portions thereof will be calculated in order to discourage excessive use of the commodity and to turn a profit;
  - 8.5.4. Declining block tariff: this tariff decreases as consumption levels increase, which tariff will only be implemented in the existence of special agreements;

- 8.5.5. Availability charges: this tariff applies to property which has not been connected to the infrastructure of the CoM, and once such connection has been provided by the CoM, the normal tariffs in respect of any service is payable;
- 8.5.6. Outside municipal area: these tariffs to users who do reside within the municipal area of the CoM, but make use of certain services of the CoM on application; and
- 8.5.7. Recoverable work: this tariff applies to customers who make use, on application, of certain recoverable services. This tariff is calculated at actual cost plus a surcharge as determined with the actual tariff;

8.6. The CoM. will further levy tariffs in accordance with different units of measurement as set out in the tariff policy and for the following different categories:

- 8.6.1. Electricity; (Basic and consumption)
- 8.6.2. Property rates
- 8.6.3. Refuse removal;
- 8.6.4. Sewerage; (Basic and additional)
- 8.6.5. Social benefits: and
- 8.6.6. Water; (Basic and consumption).

## **9. DETERMINATION, NOTICE OF TARIFFS, FEES, LEVIES AND OBJECTIONS**

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9.1. The CoM may-

- 9.1.1. by way of resolution, supported by a majority of the members of council, levy and recover levies, fees, ,taxes, and tariffs in respect of any function or service of the CoM;
- 9.1.2. by resolution, amend or withdraw any determination made in respect of the levying and recovering of levies, fees, taxes and tariffs, and may determine a date not earlier than 30 (thirty) days from the date of the resolution contemplated in paragraph (a) above, on which date the amendment, determination or withdrawal shall come into operation; and

9.1.3. recover any charges so determined or amended, including interest on any outstanding amounts.

9.2. After a resolution contemplated in paragraph (b) above has been passed, the municipal manager of the CoM must forthwith conspicuously display a notice at such place at the offices of the CoM specifically utilised for such purpose, as well as any other places within the municipal area of the CoM as may be determined by the municipal manager, which notice must state—

9.2.1. the general purpose of the resolution;

9.2.2. the date upon which the determination, amendment or withdrawal shall come into operation;

9.2.3. the date upon which the notice is displayed for the first time; and

9.2.4. that any person desirous to object to such determination, amendment or withdrawal, must do so in writing and within 14 (fourteen) days after the date upon which the notice is displayed for the first time.

9.3. Where-

9.3.1. no objection has been lodged within the 14 (fourteen) day period as contemplated in sub-section 9.2.4. above, the determination, amendment or withdrawal shall come into operation as contemplated in sub-section 9.1.2. above; and

9.3.2. an objection has been lodged within the 14 (fourteen) day period as contemplated in sub-section 9.2.4. above, the CoM must consider every objection and may amend or withdrawal ant determination, amendment or withdrawal may, and may determine a further date upon which the determination, amendment or withdrawal shall come into operation, where after sub section 9.2. shall *mutatis mutandis* apply.

## **10. PHASING IN OF TARIFFS, FEES AND LEVIES**

10.1. The CoM must annually consider the methods in terms of which tariffs, fees and levies will be calculated and accordingly amend its tariff policy by resolution.

10.2. Where the newly calculated tariffs, fees and levies substantially differ from the current tariffs the CoM may resolve to phase in such differences over a period of time.

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