

## NELSON MANDELA BAY METROPOLITAN MUNICIPALITY TARIFF BY-LAW

Under section 156 of the Constitution of the Republic of South Africa, 1996 and section 75 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Nelson Mandela Bay Metropolitan Municipality, enacts as follows:-

### TABLE OF CONTENTS

1. Definitions
2. Purpose of by-law
3. Tariff principles
4. Categories of users
5. Classification of services and cost elements
6. Deposits
7. Tariff types
8. Rebates
9. Unit of measurement
10. Determination, notice of tariffs, fees and levies and objectives
11. Recovering of costs related to payments
12. Phasing in of tariffs, fees and levies
13. Conflict of laws
14. Repeal
15. Short title and commencement

#### **1. Definitions**

In these by-laws, any word or expression to which a meaning has been assigned in the Act, must bear the same meaning and, unless inconsistent with the context:

“**community services**” means services that the municipality has classified as such, in respect of which the tariffs have been calculated with the intention that the costs of the services cannot be recovered in full from public service charges and are of a regulatory nature;

“**designated councillor**” means the member of the municipal council responsible for financial matters in the municipality as contemplated in the Act;

“**levy**” means any rate, tariff, fee, surcharge or any charge raised by the municipality;

“**economic services**” means services that the municipality 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;

“**fixed costs**” means costs, which do not vary with increased or decreased consumption or volume produced;

“**flat rates**” means the unit tariffs that do not relate to individual consumers, but are calculated by dividing the total costs by volume used by all the users together, subject to the flat rate;

“**Municipality**” means the Nelson Mandela Bay Metropolitan Municipality;

**“receipting transaction tariff”** means a tariff levied on transactions where payment methods have been introduced to improve the accessibility of payment facilities;

**“tariff policy”** means the tariff policy of the Nelson Mandela Bay Metropolitan Municipality approved by the Municipal Council in terms of section 74 of the Municipal Systems Act, 2000 (Act 32 of 2000);

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

**“total cost”** means the sum-total of all fixed and variable costs related to a service;

**“trading services”** means services that the municipality has classified as trading services, in respect of which the tariffs have been calculated with the intention that the municipality makes a profit on the delivery of the services;

**“two-part tariffs”** means tariffs that are determined to cover the fixed and variable costs of a service separately, 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;

**“units consumed”** means the number of units of a particular service consumed and are measured in terms of the units of measurement contemplated in section 8 of this by-law; and

**“variable costs”** means costs that vary with increased or decreased consumption or volume produced.

## **2. Purpose of by-law**

The purpose of this by-law is:

- (1) to give effect the provisions of section 75 of the Act;
- (2) to prescribe procedures for calculating rates, tariffs, fees, surcharges or any charges where the municipality wishes to appoint service providers in terms of section 76(b) of the Act; and
- (3) to serve as guidance to the designated councillor regarding tariff proposals to be submitted to the municipality annually during the budget process.

## **3. Tariff principles**

The following tariff principles based on the tariff policy set out in section 74(2) of the Act, apply to the levying of fees for municipal services:

- (a) all users of municipal services must be treated equitably in the application of tariffs and the various categories of users must consequently pay the same charges based on the same cost structure;
- (b) the amount payable must be in proportion to usage and based on the tariff structure adopted for the approved category of users;
- (c) unless subsidized, tariffs must reflect the total cost of services;
- (d) tariffs must be set at a level that facilitates the sustainability of services; and
- (e) sustainability must be achieved by ensuring that:
  - (i) cash inflows cover cash outflows, which means that sufficient provision for working capital or bad debts must be made; and

- (ii) access to the capital market is maintained by providing for the repayment of capital, maintaining sufficient liquidity levels and making profits on trading services.
- (f) provision must be made in appropriate circumstances for a surcharge on a tariff if and when necessary for major breakdowns in infrastructure and periods of droughts when a restriction of usage is required;
- (g) efficient and effective use of resources may be encouraged by employing a stepped tariff in order to prevent exorbitant use;
- (h) the extent of subsidisation of tariffs may be disclosed by publishing the true costs of the service and the level of subsidy as well as the source of the subsidy.

#### **4. Categories of users**

(1) The tariff structure of the Nelson Mandela Bay Metropolitan Municipality must make provision for different categories of users as determined in the Tariff Policy.

(2) Where there is a substantial difference between the standard of services provided to a specified category of users, the municipality may, after the presentation of an engineers report by the portfolio councillor, determine differentiated tariffs within the specified category.

#### **5. Classification of services and cost elements**

##### ***(1) Classification of services***

Provision must be made for the following classification of services:

##### ***(a) Trading services***

- (i) Electricity
- (ii) Water
- (iii) Market

##### ***(b) Economic services***

- (i) Refuse removal
- (ii) Sewerage Disposal
- (iii) Recreation Resorts

##### ***(c) Community services***

##### ***(d) Subsidised services***

- (i) Libraries
- (ii) Primary Health Care
- (iii) Proclaimed Roads

##### ***(2) Cost elements***

The following cost elements must be used to calculate the tariffs of the different services:

- (a) Fixed costs, which consist of the capital costs, interest on external loans as well as depreciation, whichever are applicable on the service and any other costs of a permanent nature as determined by the Chief Financial Officer from time to time.
- (b) Variable cost: This includes all other variable costs that have reference to the service.
- (c) Total cost is equal to the fixed cost plus variable cost.

## 6. Deposits

The municipality may require the payment of deposits as determined by the municipality from time to time.

## 7. Tariff types

- (1) In setting service charges the municipality must:
  - (a) accurately reflect costs to achieve economic efficiency;
  - (b) ensure equity and fairness between different types and categories of consumers;
  - (c) utilise appropriate metering and supporting technology; and
  - (d) be transparent.
- (2) In determining the type of tariff applicable to the type of service the municipality must make use of the following options or a combination thereof:
  - (a) Single tariff: This tariff shall consist of a fixed cost per unit consumed. All costs will therefore be recovered through unit charges at the level of breakeven consumption and surpluses on trading services may be allowed.
  - (b) Cost related two part tariff: This tariff shall consist of two parts. Management, capital, maintenance and operating costs will be recovered by grouping certain components together e.g. management, capital and maintenance costs may be grouped together and be recovered by a fixed charge, independent of consumption for all classes of consumers, while the variable costs may be recovered by a unit charge per unit consumed.
  - (c) Inclining block tariff: This tariff is based on consumption levels being categorised into blocks, the tariff being determined and increased as consumption levels increase. This tariff will only be used to prohibit the exorbitant use of a commodity. The first step in the tariffs will be calculated at break-even point. Subsequent steps will be calculated to yield profits and to discourage excessive use of the commodity.
  - (d) Declining block tariff: This tariff is the opposite of the inclining block tariff and decreases as consumption levels increase. This tariff will only be implemented during the existence of special agreements.
  - (e) Availability charges: Payable in respect of availability of access to the municipality's infrastructure. Once the service is used, availability charges as well as the normal tariffs as per respective use of the service are payable.
  - (f) Outside Municipal Area: These tariffs shall apply to consumers who are not residing within the municipal boundaries but are making use, on application, of certain services.

- (g) Recoverable work: These tariffs shall apply to consumers who are making use, on application, of certain recoverable services. The tariff will be calculated at actual cost plus a surcharge as determined with the actual tariffs.
- (h) Receiving transaction tariff: These tariffs shall apply to consumers who make use of special or new payment facilities or methods as and when it may become available and the tariff will be payable on each transaction made by a consumer depending on the payment method selected by the consumer.

## **8. Rebates**

Rebates are allowed in accordance with the tariff schedule as determined by the municipality annually.

## **9. Unit of measurement**

The following units of measurement must, where possible, be used to determine tariffs:

### ***(1) Water***

Water will be measured with a water meter, which meters will be read and consumption will be levied on a monthly basis unless the service is rendered through a pre-payment device:

- (a) Availability charge plus cost per unit charge (kilolitres consumed); or
- (b) A flat rate will be applied when no metering device is connected to measure consumption.

### ***(2) Electricity***

Electricity will be measured with an electricity meter, which meters will be read and consumption will be levied on a monthly basis unless the service is rendered through a pre-payment device:

- (a) Maximum demand plus kWh consumed; or
- (b) Fixed costs plus kWh consumed; or
- (c) Cost per unit KWH consumed.

### ***(3) Refuse removal***

The municipality may levy a tariff for the removal of refuse.

### ***(4) Sewerage***

The municipality may levy a tariff for the removal and treatment of sewerage based on:

- (a) Percentage of water consumption.
- (b) Percentage of water consumption plus costs for strength of disposal.
- (c) Pail charge: based on the number of properties within those categories of customers and fixed cost associated with the service.
- (d) When the number of properties is not available, a flat charge, based on the average consumption per categories of consumers, will be applicable.

**(5) Assessment Rate**

- (a) Assessment rate is calculated taking into account the total net expenditure from the other services less the revenue envisaged based on the total rateable valuations. The assessment rate must be calculated in such a manner that the municipality realise a net surplus when adopting its tariffs.
  
- b) Assessment rates are calculated as prescribed by The Local Government: Municipal Property Rates Act. The municipality may in terms of the criteria set out in its rates policy levy different rates for different categories of rateable property. Rates are levied as a annual amount which are payable either on an annual or monthly basis.

**(6) Social benefits**

- (a) The municipality, in order to measure social benefits enjoyed by the community, has approved of the standards as set out in the tables below to achieve cost recovery and to measure service delivery, where possible.
- (b) Measures indicated should be calculated annually and used as a guideline to ensure meaningful reporting. Actual unit costs must be compared with budgeted costs.

**10. Determination, notice of tariffs, fees and levies and objections**

The municipality may—

- (1) By resolution, supported by a majority of the members of the municipal council, levy and recover levies, fees, taxes and tariffs, in respect of any function or service of the municipality.
- (2) By resolution, amend or withdraw such determination and determine a date, not earlier than 30 days from date of the resolution, on which such determination, amendment or withdrawal shall come into operation and recover any charges so determined or amended, including interest on any outstanding amount.
- (3) After a resolution as contemplated in sub-section (2) has been passed, the municipal manager of the municipality shall forthwith cause to be conspicuously displayed, at a place installed for this purpose at the offices of the municipality, as well as at such other places within the area of jurisdiction of the municipality as may be determined by the municipal manager, a notice stating—
  - (a) the general purport of the resolution;
  - (b) the date on which the determination or amendment shall come into operation;
  - (c) the date on which the notice is first displayed; and
  - (d) that any person who desires to object to such determination or amendment shall do so in writing within 14 days after the date on which the notice is first displayed.
- (4) Where—

- (a) no objection is lodged within the period referred to in sub-section (4)(d) the determination or amendment shall come into operation as contemplated in sub-section (2);
- (b) an objection is lodged within the period referred to in sub-section (4)(d), the municipality shall consider every objection and may amend or withdraw the determination or amendment and may determine a date other than the date contemplated in sub-section (2) on which the determination or amendment shall come into operation, whereupon sub-section (4)(b) shall with the necessary changes apply.

#### **11. Recovering of costs related to payments**

- (1) The municipality may recover any bank costs from the consumer if payment is made at a bank or through the use of any bank-related payment methods and provided that a bank levies such costs.
- (2) If any action on the part of a consumer has the effect that a payment has to be reversed, the municipality may recover any costs which may arise as a result of additional work required from officials in relation to such action.

#### **12. Phasing in of tariffs, fees and levies**

- (1) The municipality must annually consider the methods by which tariffs, fees and levies will be calculated and by resolution amend its tariff policy.
- (2) Where the newly calculated tariffs, fees and levies differ substantially from the current tariffs the municipality may resolve to phase in the differences over a period of time.

#### **13. Conflict of law**

- (1) When interpreting any provision of this by-law, any interpretation which is reasonable and consistent with the objectives of the Act as set out in Chapter 8, Part 1, on service tariffs, must be preferred over any alternative interpretation which is inconsistent with these objectives.
- (2) If there is any conflict between this by-law and any other by-laws of the municipality relating to tariffs, this by-law shall prevail.

#### **14. Repeal**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality are hereby repealed as far as they relate to matters provided for in this by-law.

#### **15. Short title and commencement**

This by-law is called the Tariff By-law of the Nelson Mandela Bay Metropolitan Municipality and shall come into operation on the date of publication thereof in the Provincial Gazette