



nelson mandela bay
M U N I C I P A L I T Y

**NELSON MANDELA BAY METROPOLITAN MUNICIPALITY
DRAFT TARIFF BY-LAW**

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To give effect to the implementation of the Nelson Mandela Bay Metropolitan Municipality's tariff policies for municipal services and to provide for matters incidental thereto.

BE IT THEREFORE ENACTED by the Council of the Nelson Mandela Bay Metropolitan Municipality, as follows:-

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1. Definitions

In this By-law, any word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) has the same meaning, unless the context indicates otherwise—

“Council” means the municipal council of the municipality;

“municipality” means the Nelson Mandela Bay Metropolitan Municipality;

“tariff” means any fee or charge levied by the municipality for municipal services provided by the municipality itself or by way of a service delivery agreement and includes a surcharge on such tariff, excluding rates levied by the Council in terms of the Local Government Municipal: Property Rates Act, 2004 (Act 6 of 2004);

“Tariff policy” means a tariff policy adopted by Council in terms of this By-law;

“the Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“user” means a person who has applied for and entered into an agreement with the municipality for the supply of a municipal service or any person who in terms of any other by-law of the municipality is liable for the payment of a municipal service.

2. Principles and Objects

2.1 Section 229(1) of the Constitution of the Republic of South Africa authorises the municipality to impose—

- (i) rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
- (ii) If authorised by national legislation, other taxes, levies and duties.

- 2.2 In terms of section 75A of the Act, the municipality may—
- (i) levy and recover fees, charges or tariffs in respect of any function or service of the municipality, and
 - (ii) recover collection charges and interest on any outstanding amount.
- 2.3 In terms of section 74(1) of the Act, the Council must adopt and implement a 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 Act, the Local Government: Municipal Finance Management Act, (Act 56 of 2003) and any other applicable legislation.
- 2.4 In terms of section 75(1) of the Act the Council must adopt by-laws to give effect to the implementation and enforcement of its tariff policies.
- 2.5 In terms of section 75(2) of the 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.

3. Guiding Principles for the Determination of Tariffs

- 3.1 When the Council determines tariffs, the Council must apply the following principles:
- a) users of municipal services must be treated equitably in the application of tariffs;
 - b) the amount an individual user pay for a service must be in proportion to their use of that service;
 - c) tariffs must be cost effective and provide for recovery of the costs reasonably associated with rendering the municipal service, including capital, operating, maintenance, administration, replacement costs and financing charges;
 - d) tariffs must promote the sustainability of the provision of municipal services;
 - e) provision must be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;
 - f) tariffs, rates and the employment of resources must take the Council's economic principles and goals into account;

- g) provision must be made in appropriate circumstances for a surcharge on a tariff when necessary for major breakdowns in infrastructure and periods of drought when a restriction of usage is required;
- h) efficient and effective use of resources may be encouraged by employing a stepped tariff to prevent exorbitant use of a resource;
- i) a punitive tariff may be imposed to quell abuse of resources;
- j) the extent of subsidisation of tariffs for poor households and other categories of users must be fully disclosed by publishing the costs of the service and the subsidy amount as well as the source of the subsidy;
- k) poor households must have access to at least basic services through—
 - (i) tariffs that cover only operating and maintenance costs;
 - (ii) special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service; or
 - (iii) any other direct or indirect method of subsidisation of tariffs for poor households;
- l) tariffs must be set at levels that facilitate the financial sustainability of the service, taking into account subsidisation from sources other than the service concerned;
- m) provision may be made in appropriate circumstances for a surcharge on the tariff for a service;
- n) provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users; and
- o) the economical, efficient and effective use of resources, the recycling of waste, and other appropriate environmental objectives must be encouraged.

4. Application of By-law

- 4.1 This By-law applies to the applicable tariff policy adopted for each service by the Council and tariffs imposed by the Council and municipal entities falling under the effective control of the municipality.

5. Adoption and implementation of Tariff Policy

- 5.1 The Council must adopt and implement a tariff policy per service on the levying of fees for a municipal service provided by the municipality itself or provided by way of service delivery agreements which complies with the provisions of the Act and the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) and any other applicable legislation.

6. Enforcement of Tariffs

- 6.1 The Council's tariffs shall be enforced through the Customer Care and Revenue Management By-law of the municipality.

7. Recovering of Costs Related to Payments

- 7.1 The municipality may recover any bank costs from the user if payment is made at a bank or using any bank-related payment methods and provided that a bank levies such costs.
- 7.2 If any action on the part of a user has the effect that a payment must be reversed, the municipality may recover any costs which may arise because of additional work required from officials in relation to such action.
- 7.3 The Council may levy interest or a surcharge on late payments of accounts as prescribed by the Council's Customer Care and Revenue Management By-law.

8. Phasing in of tariffs, fees and levies

- 8.1 The municipality must annually consider the methods by which tariffs are calculated and may amend its applicable Tariff Policy by a resolution of the Council.
- 8.2 Where the newly calculated tariffs, fees and levies differ substantially from the current tariffs the municipality may resolve to phase in the differences over more than one budget year in accordance with the budgeting processes of the

municipality in terms of Chapter 4 of the Local Government: Municipal Finance Management Act (56 of 2003).

9. Short title and commencement

- 9.1 This By-law is called the Tariff By-law of the Nelson Mandela Bay Metropolitan Municipality and comes into operation on the date of publication thereof in the *Provincial Gazette*.

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