

MAKHADO MUNICIPALITY

DRAFT TARIFF BY-LAW

To give effect to the Municipality's tariff and free basic services policy, its implementation and enforcement in terms of sections 156(2) and 229(1) of the Constitution of the Republic of South Africa, 1996 and section 75 and 75A of the Municipal Systems Act, 2000; and to provide for matters incidental thereto.

1. Preamble

WHEREAS Section 75A of the Local Government: Systems Act, 2000 (Act 32 of 2000) authorizes a municipality to levy and recover fees, charges or tariffs in respect of any function or service of the municipality, and to recover collection charges and interest on any outstanding amount.

AND WHEREAS in terms of Section 74(1) of the Systems Act, a municipal 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 which complies with the provisions of the Systems Act, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.

AND WHEREAS in terms of Section 75(1) of the Systems Act, a municipal council must adopt by-laws to give effect to the implementation and enforcement of its tariff policy.

AND WHEREAS in terms of Section 75(2) of the Systems Act, by-laws adopted in terms of Section 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.

NOW THEREFORE be it enacted by the municipal council of the Makhado Municipality as follows:

2. Interpretation

In this By-law, unless the context indicates otherwise—

“Credit Control and Debt Collection By-law and Policy” means the Credit Control and Debt Collection By-law and Policy adopted by the Municipality as required by section 96(b), 97 and 98 of the Systems Act;

"Council" means the council of the Municipality;

"Municipality" means the Makhado Municipality and includes any duly delegated official or service provider of the Municipality;

“tariff” means fees, charges, or any other tariffs levied by the Municipality in respect of any function or service provided by the Municipality, excluding rates levied by the Municipality in terms of the Local Government: Municipal Property Rates Act, 6 of 2004;

"tariff policy" means a tariff and free basic services policy adopted by the Municipality;

"Systems Act" means the Local Government: Municipal Systems Act, No. 32 of 2000;

"this By-law" includes the Makhado Local Municipality: Tariff and free basic services Policy;

3. Adoption and implementation of tariff and free basic services policy

- (1) The Municipality shall adopt and implement a tariff and free basic service policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements which complies with the provision of the Systems Act, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.

- (2) The Municipality shall not be entitled to impose tariffs other than in terms of a valid tariff and free basic service policy.

4. Contents of tariff policy

The Municipality's tariff policy shall, *inter alia*:

- (1) apply to all tariffs 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 Section 74(2) of the Systems Act are to be implemented in terms of the tariff policy;
- (4) specify the basis of differentiation, if any, for tariff purposes 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;
- (5) include such further enforcement mechanisms, if any, as the Municipality may wish to impose in addition to those contained in the Credit Control and Debt Collection By-law and Policy.

5. Enforcement of tariff policy

The Municipality's tariff policy shall be enforced through the Credit Control and Debt Collection By-law and Policy and any further enforcement mechanisms stipulated in the Municipality's tariff policy.

6. Operative clause

These by-laws will commence on publication thereof in the Provincial Gazette.

7. Repeal of By-Laws

The provisions of any by-laws relating to tariffs and free basic services by the municipality are hereby repealed insofar as they relate to matters provided for in these by-laws and policy.

8. Short title

This by-law is called the Tariff By-law of the Makhado Municipality, 2010.