

MUNICIPALITY OF CAPE AGULHAS

Tariff Policy By-Law

To give effect to the implementation and application of the tariff policy of the municipality, as required in terms of section 75 of the Local Government: Municipal Systems Act, No 32 of 2000 and to comply with certain requirements of Local Government: Municipal Finance Management Act, No 56 of 2003;

Preamble

Whereas section 4 of the Systems Act confirms the right of the Municipality *inter alia* to charge fees for services and impose surcharges on fees, rates on property and, to the extent authorised by national legislation, other taxes, levies and duties;

Whereas section 4(2)(d) of the Systems Act imposes the duty on the Municipality to strive towards ensuring that municipal services are provided to the local community in a financially and environmentally sustainable manner;

Whereas section 4(2)(e) of the Systems Act imposes the duty on the Municipality to consult the local community about the level, quality, range and impact of municipal services provided by the Municipality either directly or through another service provider;

Whereas section 75A of the Systems Act confers on the municipality the power to levy and recover fees, charges or tariffs in respect of any function or service of the municipality;

Whereas section 74 of the Systems Act requires the Council to adopt a tariff policy on the levying of fees for municipal services;

Whereas the tariff policy must reflect at least the principles set out in section 74(2) and may differentiate between different categories of users, debtors, service providers, services, services standards, geographical areas and other matters as long as the differentiation does not amount to unfair discrimination;

And whereas section 75 of the Systems Act requires the Council to adopt a By-law to give effect to the implementation and application of the tariff policy.

Arrangement of Sections

1. Definitions
2. Object
3. Levying of tariffs.
4. Policy
5. Public participation
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BY-LAW

1. Definitions

In this by-law, unless inconsistent with the context;-

"council" means the municipal council of the municipality;

"credit control by-law" means the municipality's Credit Control and Debt Collection Policy By-law, published in the Pvincial Gazette;

"Finance Management Act" means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

"financial recovery plan" has the meaning ascribed to it by the Finance Management Act;

"poor household" means a household in the municipal area which is unable to afford either the full tariff levy for municipal services or part thereof;

"municipality" means the Municipality of Cape Agulhas;

"policy" means the council's tariff policy, reflected in the schedule to this by-law;

"service" means any municipal service as defined in the Systems Act and any other service rendered by the municipality as defined in the policy, and

"Systems Act" means the Local Government; Municipal Systems Act, 2000 (Act 32 of 2000);

"Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"tariff" means a tariff for services which the municipality may set for the provision of a service to the local community, and includes a surcharge on such tariff;

"this by-law" also includes the policy; and

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

2. Object

The object of this by-law is to ensure that-

- (a) tariffs are determined in order to facilitate and ensure sustainable and affordable services;
- (b) cost reflecting tariffs are determined that include capital, operating, maintenance, administrative and replacement costs for the various services rendered and functions performed by the council;
- (c) self supporting tariffs are determined for trade and economic services and that any surpluses derived therefrom be transferred to rates and general services which due to the nature of the service cannot be self supporting;
- (d) uniform tariffs are determined that are applicable throughout the area of jurisdiction of council;
- (e) tariffs specifically for water but not limited to water are determined that will discourage waste;
- (f) the tariffs that every individual user or category of users must pay are generally in relation to the use of the service;

- (g) in so far as practical, cross-subsidation of different tariffs and concealed subsidies in tariffs are eliminated;
- (h) poor households can obtain 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) the free supply of 6 kiloliter water and 50 kWh electricity for domestic use by means of cross-subsidation;
 - (iv) the awarding of compassionate subsidies on tariffs for basic services that include water, sanitation and refuse removal; and
 - (v) any other direct or indirect method of subsidisation and/or cross-subsidation of tariffs for poor households;
- (i) provision may be made in appropriate circumstances for a surcharge on the tariff for a service;
- (j) provision is made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;
- (k) the economical, efficient and effective use of resources, the recycling of waste, and other appropriate environmental objectives are encouraged; and
- (l) effect is given to the implementation and enforcement of the policy.

3. Levying of tariffs

- (1) The council, subject to subsection (2), determines tariffs when approving its budget for a budget year.
- (2) The council only determines tariffs during the course of a financial year only when-
 - (a) a new service is introduced,
 - (b) no tariff for an existing service has previously been imposed, or
 - (c) it is necessary to correct a tariff already imposed.

- (3) The council does not increase tariffs during a financial year, except when required in terms of a financial recovery plan in terms of section 28(6) of the Finance Management Act.
- (4) The council levies tariffs by resolution passed with a supporting vote of a majority of its members.

4. Policy

- (1) The council levies tariffs in terms of the policy as reflected in the schedule top this by-law.
- (2) Differentiation in the policy between different categories of users, debtors, service providers, services, service standards, geographical areas and other matters is necessary to achieve the objects of this by-law without unfair discrimination.
- (3) The mayor must, when preparing the annual budget, co-ordinate the processes for reviewing the policy, if necessary.
- (4) Any changes to the policy must be approved by the Council together with the adoption of resolutions setting tariffs for the budget year and published as an amendment to this by-law.

5. Public participation

- (1) The municipal manager must immediately after an annual budget is tabled in the council in terms of section 16 of the Finance Management Act, make public the draft resolutions setting any tariffs for the budget year and-
 - (a) invite the local community to submit representations in connection therewith;
 - (b) submit the annual budget to the National Treasury, the Provincial Treasury and any provincial or national organs of state or municipalities as may be required in terms of section 17 of the Finance Management Act.

- (2) The council must before finalising any tariffs for the budget year consider the views of the local community and the bodies referred to in paragraph (b) of subsection (1) which made submissions on the budget as well as the mayor's response to the submissions.
- (3) The council must consult the local community in respect of strategic decisions relevant to the planning and provision of services and the influence thereof on tariffs.

6. Application

This by-law is also applicable to the levying of tariffs for municipal services which are rendered by means of service delivery agreements, and which complies to the provisions of the Systems Act and any other applicable legislation.

SCHEDULE

Arrangement of Items

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POLICY PART 1: PRINCIPLES

1. Cost of services to be recovered

The tariffs for the following services are based on the recovery of the cost to deliver the services:

- (a) electricity;
- (b) water;
- (c) waste water and sewage removal; and
- (d) refuse removal.

2. Cost of auxiliary services to be recovered

- (1) Fees, charges or tariffs for auxiliary services are based on recovery of the cost to provide the service.
- (2) Auxiliary services are those services that are reasonably necessary for, or incidental to, the effective rendering of municipal services.

- (3) Auxiliary services include but are not limited to-
- (a) the lodging of an application;
 - (b) the issuing of a certificate, direction, approval, consent or permission by the municipality;
 - (c) the production or installation of an item or work by the municipality;
 - (d) utilising the service of a municipal official;
 - (e) hiring of municipal equipment; and
 - (f) the utilisation of municipal infrastructure and amenities.

3. Subsidisation

- (1) The municipality acknowledges the fact that some members of the community are better able to afford to pay for the services that they use and have the benefit of, than others and that the budget of the Municipality is an important mechanism in ensuring redistribution within the community and will ensure, where appropriate, that cross-subsidisation and subsidies occur from other sources to further contribute to its redistributive objectives.
- (2) Subsidised services are those services of which the tariffs are fixed in such a way that the cost of providing them may be recovered only to some extent, but are in many cases purely regulatory by nature and any losses incurred on such services are financed from assessment rates and subsidy income.
- (3) Tariffs for the following services are not sufficient to recover the cost to deliver the such services and income from rates will be used in co-funding-
- (a) firefighting services;
 - (b) cemeteries and crematoria;
 - (c) local amenities;
 - (d) local sports facilities;
 - (e) markets; and
 - (f) other services the municipality is required to deliver.

4. Free basic services

- (1) The Municipality subscribes to the policy that everybody is entitled to a minimum amount of specified free basic services.
- (2) A basic service is a service that is necessary to ensure an acceptable and reasonable quality of life and, if not provided, would endanger public health or safety or the environment.
- (3) The specified free basic services are;
 - (a) water;
 - (b) domestic waste water and sewage removal;
 - (c) domestic refuse removal; and
 - (d) electricity.

5. Keeping tariffs cost effective

- (1) The Municipality undertakes to keep tariffs cost effective and will ensure that-
 - (a) services are generally delivered at an appropriate level;
 - (b) efficiency improvements are actively pursued across the operations of the municipality.
- (2) A performance management system is introduced to ensure that plans that are devised are actually implemented; that resources are obtained as economically as possible, used efficiently and effectively and that appropriate service delivery mechanisms are used.
- (3) Any non-core functions that the municipality currently performs are to be phased out as soon as possible, without depriving the community of any services that actually contributes to quality of life.
- (4) Any service that is provided for which there is little demand, that is priced under the actual cost of providing it and which requires the Municipality to maintain significant infrastructure and other facilities, are phased out, except where the Municipality is by law required to provide such a service.

- (5) The economic, efficient and effective use of resources, the recycling of waste, and other apposite environmental aims, are encouraged and council will consider appropriate incentives for the achievement of such aims.
- (6) The municipality may provide different service levels and may determine separate tariffs for the different levels.
- (7) When determining tariffs, the ability to pay of the various categories of users will within reasonable and cost effective limits, be taken into consideration, in order to stimulate growth in the area of the municipality.

6. Fully Utilising Sources of Revenue

- (1) The Municipality will ensure that where tariffs are uneconomical (i.e. too low in relation to the cost of providing the service concerned) or where no or nominal tariffs have been set, service charges are imposed in respect of any service where it can be done.
- (2) The Municipality will ensure that-
 - (a) tariffs for services are reviewed every financial year.
 - (b) tariff increases are in line with increases in the price of goods, material and other resources acquired and used by the Municipality to perform its functions; and
 - (c) the tariff for a particular service is calculated in such a way that all relevant costs are covered. This means that a tariff for a service must include at least the capital expenditure required and interest thereon, the cost of managing and operating the service and the cost of maintaining, repairing and replacing the physical assets used in its provision.

7. User must pay for services

- (1) Notwithstanding the Municipality's commitment to free basic services, the Municipality believes that consumers of services must pay for the amount

- of services that they use. Where it is possible to measure the consumption of services, the Municipality intends to install metering systems.
- (2) All domestic users, except indigent households, must remit the full amount in respect of services rendered.

8. Surpluses

The Council may provide for surpluses on the income from the following services:

- (a) water;
- (b) waste water and sewage removal;
- (c) refuse removal;
- (d) electricity; and
- (e) holiday resorts.

9. Categories of users

- (1) Categories of users of unsubsidised services include the following-
- (a) domestic users;
 - (b) commercial users;
 - (c) industrial users;
 - (d) agricultural users;
 - (e) rural users;
 - (f) municipal services;
 - (g) bulk users;
 - (h) temporary users.
- (2)(a) The council may also differentiate in tariffs for subsidised services as contemplated in Item 3.
- (b) Categories of users for subsidised services may include the following:-
- (i) Schools
 - (ii) Churches
 - (iii) Poor households
 - (iv) Registered welfare organisations
 - (v) NGO's approved by the council.

- (3) The Municipality will ensure equity within each category.

10. Billing and action for no-payment

- (1) Electricity is measured in units (kWh) and maximum demand (in kVA) and water in kilolitre. The council endeavours to furnish a correct monthly account to consumers by the monthly reading of meters.
- (2) Users are billed for actual consumption only. In cases where, owing to unforeseen circumstances, it is impossible to read the meters and an average consumption is utilised for billing purposes, the necessary adjustment will be made in the following month.
- (4) Strict action will be taken against defaulters in terms of the credit control by-law.

PART 2: ELECTRICITY

11. Basic charges

- (1) Council may charge a basic charge.
- (2) Council may differentiate between the different categories of users.

12. Tariffs

- (1) The Council may charge the following tariffs:
 - (a) Availability charges based on consumption and category of users;
 - (b) consumption charges per kWh, differentiated between the different categories of users;
 - (c) consumption charges (per kVA demand) in respect of-
 - (i) bulk consumers and
 - (ii) off-peak hours.
 - (d) Charges for the following auxiliary services, including but not limited to-
 - (i) test of meter;
 - (ii) special readings; and
 - (iii) connections, disconnections, defaulters and re-connections.

- (2) VAT, where applicable, is included in the tariffs and must be adjusted up or down depending on the rate in terms of VAT legislation.

13. Free basic service

The minimum level of free electricity is 50 kWh per household per month and is not transferable to an ensuing month.

PART 3: WATER

14. Basic charges

- (1) The Council may charge a basic/availability charge.
- (2) The Council may differentiate between the different categories of users.

15. Tariffs

- (1) The Council may charge the following tariffs:
 - (a) Availability charges.
 - (b) Water consumption charges
 - (i) on an ascending sliding-scale in respect of domestic users
 - (ii) on an ascending sliding-scale in respect of other categories of users other than domestic consumers
 - (iii) in respect of water consumption by the municipality, and
 - (iv) in respect of bulk water supply to informal transit camps.
 - (c) Charges for the following auxiliary services, include but is not limited to-
 - (i) test of meter;
 - (ii) special readings; and
 - (iii) connections, disconnections, defaulters and reconnections;
- (2) VAT, where applicable, is included in the tariffs and must be adjusted up or down depending on the rate in terms of VAT legislation.

16. Free basic service

The minimum level of free water is 6kl per household per month and is not transferable to an ensuing month.

PART 4: WASTE WATER AND SEWAGE REMOVAL

17. Basic charges

- (1) The Council may charge a basic charge.
- (2) The Council may differentiate between the different categories of users.

18. Tariffs

- (1) The Council may charge and levy an availability charge.
- (2) The Council may differentiate between the different categories of users.
- (3) The Council may charge for the following auxiliary services, including the following-
 - (a) test of meter;
 - (b) special readings; and
 - (c) connections, disconnections and reconnections.
- (4) VAT, where applicable, is included in the tariffs and must be adjusted up or down depending on the rate in terms of VAT legislation.

19. Free basic service

The minimum level of free waste water and sewage removal for identified poor households will be subsidised by means of compassionate allowances as determined by the council.

PART 5: REFUSE REMOVAL

20. Basic charges

- (1) The Council may charge a basic charge.
- (2) The Council may differentiate between the different categories of users.

21. Tariffs

- (1) The Council may charge a tariff based on-
 - (a) the number of removals;

- (b) the mass of a removal;
 - (c) the number of containers removed;
 - (d) the type of refuse; or
 - (e) any other criteria relevant to the service.
- (2) VAT, where applicable, is included in the tariffs and must be adjusted up or down depending on the rate in terms of VAT legislation.

22. Free basic service

The minimum level of free refuse removal for identified poor households will be subsidised by means of compassionate allowances as determined by the council.