

SENQU MUNICIPALITY MUNICIPAL NOTICE

LOCAL AUTHORITY NOTICE NO...

2017

BY-LAW ON TARIFFS

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Tariffs.

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CHAPTER 1
OBJECTIVES, DEFINITIONS AND APPLICABILITY OF BY-LAW

1 Objectives

The objectives of this By-law are to:

- (a) give effect to the right contained in section 229 of the Constitution of the Municipality to impose surcharges on fees for services provided by the Municipality in its area of jurisdiction;
- (b) give effect to the provisions of sections 74(1) and 75A of the Act; and
- (c) give effect to the implementation and enforcement of the tariff policy of the Municipality.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in this By-law and the Act shall have the meaning so assigned to it and, unless the context otherwise indicates:

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

“annual budget” means the budget approved by the Council for any particular financial year, and shall include any adjustments to such budget;

“consumer” means any end user who receives services from the Municipality, including an end user in an informal settlement;

“Council” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

“financial year” means the period starting from 1st July in any year and ending on 30th June of the following year;

“indigent consumer” means a consumer registered as an indigent debtor in terms of the Senqu Municipality: Indigent Support and Basic Services Subsidy By-law, 2017;

“installation” means a pipeline, fitting or apparatus installed or used by a consumer to gain access to services and includes a meter attached to such pipeline, fitting or apparatus;

“local community” has the meaning assigned to it in section 1 of the Act;

“month” means a calendar month;

“municipal area” means the area of jurisdiction of the Municipality;

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

“municipal manager” means a person appointed in terms of section 54A of the Act.

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting

in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“National Energy Regulator of South Africa” means the body established in terms of section 3 of the National Energy Regulator Act, 2004, Act 40 of 2004;

“sanitation services” means collection, removal, disposal or purification of human excreta, domestic waste-water, sewage and effluent resulting from the use of water for commercial purposes;

“service” has the meaning assigned to municipal service in section 1 of the Act;

“sundry tariff” means any fee, charge or deposit that the Municipality may levy in terms of any by-law promulgated by the Council and that is determined by it in terms of chapter 6 of this By-law;

“tariff” means any charge, rate, tax, duty and levy which may be imposed by the Municipality for services provided either by itself or in terms of a service delivery agreement;

“tariff policy” means the Tariff and Services Policy adopted by the Council in terms of section 74 of the Act;

“water services” means water supply services and sanitation services;

“Water Services Act” means the Water Services Act, 1997, Act 108 of 1997;

“water services authority” means the Joe Gqabi District Municipality determined in terms of the Local Government: Municipal Demarcation Act, 1998, Act 27 of 1998;

“water services provider” means the Municipality;

“water supply services” means the abstraction, conveyance, treatment and distribution of potable water, water intended to be converted to potable water or water for commercial use but not water for industrial use

3 Applicability of By-law

(1) This By-law must be read with any applicable provisions of the Act.

(2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates tariffs, the provisions of this By-law shall prevail to the extent of the inconsistency.

CHAPTER 2

TARIFF PRINCIPLES

4 Tariff principles

(1) The tariff principles set out in section 74(2) of the Act as well as the principles adopted by the Municipality in its annual tariff policy shall apply.

(2) With the exception of the indigence relief measures approved by the Municipality, service tariffs should be viewed as user charges and not as rates, and the ability of the relevant consumer or user of the services to which such tariffs relate, to pay for such services, should not be considered as a relevant criterion.

(3) The Municipality must ensure that its tariffs are uniformly and fairly applied throughout the municipal area.

(4) Tariffs for the following major services must as far as possible recover the expenses associated with the rendering of each service concerned, and, where feasible, generate a modest surplus as determined in each annual budget:

- (a) supply of electricity;
- (b) supply of water services;
- (c) refuse removal services.

(5) Tariffs must be set at a level that facilitates the sustainability of services.

(6) Sustainability will be achieved by ensuring that -

- (a) cash inflows cover cash outflows which means that sufficient provision for working capital and bad debts will be made;
- (b) access to the capital market is maintained which will be achieved by providing for the repayment of capital, maintaining sufficient liquidity levels and making profits on trading services in order to subsidise property rates and general services; and
- (c) service providers retain a fair rate of return on their investments.

(7) Provision must be made for surcharges on tariffs in appropriate circumstances.

(8) Efficient and effective use of resources must be encouraged by providing for penalties to prohibit or restrict exorbitant use.

(9) The extent of subsidisation of tariffs will be disclosed and will include the extent of subsidisation of the indigent and incentives for local development.

(10) Provision must be made for the subsidisation of the indigent and the promotion of local economic development by creating costs votes in the service budgets and including the costs in tariff calculations.

(11) In the case of the directly measurable services, namely electricity and water, the consumption of such services must be properly metered and meters must be read, wherever possible, on a monthly basis, and the charges levied must be proportionate to the quantity of the service consumed.

(12) The Municipality may differentiate between types of property in order to determine availability charges, which will be contained in the tariffs, as approved in each annual budget.

(13) In considering the costing of its water services and electricity services, the Municipality must take due cognisance of the high capital cost of establishing and expanding such services, and of the resultant high fixed costs, as opposed to variable costs of operating these services.

(14) The Municipality's tariffs for electricity services are determined to ensure-

- (a) that those consumers who are mainly responsible for peak demand, and therefore for the incurring by the Municipality of the associated demand charges from Eskom, have to bear the costs associated with these charges.
- (b) that for the purposes of paragraph (a), demand meters are installed to measure the maximum demand of such consumers during certain periods; and

- (c) that such consumers pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.

(15) VAT is excluded from all tariffs and will be added to these tariffs when applicable.

(16) All expenses associated with the political structures of the Municipality shall form part of the expenses to be financed from property rates and general revenues, and shall not be included in the costing of the major services referred to in subsection (4).

5 Calculation of tariffs for major services

(1) The Municipality must, when determining the tariffs for the major services referred to in section 4(4), identify all costs of operation of the undertakings concerned including -

- (a) the cost of bulk purchases in the case of water and electricity;
- (b) distribution costs;
- (c) distribution losses in the case of water and electricity;
- (d) depreciation charges;
- (e) maintenance of infrastructure and other fixed assets; and
- (f) salaries, administration and service costs, including
 - (i) service charges levied by other departments such as finance, human resources and legal services;
 - (ii) reasonable general overheads, such as the costs associated with the office of the municipal manager;
 - (iii) adequate contributions to the provisions for bad debts and obsolescence of stock; and
 - (i) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area.
- (g) the intended surplus to be generated for the financial year concerned and such surplus may be applied either –
 - (i) as an appropriation to capital replacement reserve; or
 - (ii) generally in relief of rates and general services,or both.

6 Indigent relief

In its determination of tariffs, the Council must consider indigent relief for all services for registered indigent consumers in accordance with the Senqu Municipality: Indigent Support and Basic Services Subsidy By-law, 2017, to the extent that the Council deems such relief affordable in terms of each annual budget.

CHAPTER 3

ELECTRICITY

7 Electricity tariffs

The Council may determine electricity tariffs in regard to the following:

- (a) an utility electricity charge to be levied on a property where such property is connected to the Municipality's electrical reticulation network;
- (b) an electricity utility charge to be levied on a property not connected to the Municipality's electricity network, but which property can be so connected to the Municipality's electrical reticulation network at a point on the property or less than 50 meters from any boundary of such property;
- (c) the consumption of electricity;
- (d) the testing of electrical supply meters;
- (e) taking of an electrical meter reading at the special request of a user or the installation of a test meter;
- (f) the connecting of a property to the Municipality's electrical reticulation network;
- (g) the re-connecting of an existing connection to the Municipality's electrical reticulation network in the case of a new consumer or after disconnection as a result of defaulting on payment by the consumer.

8 Categories of consumers

(1) The Municipality must, in its tariff policy, determine the various categories of electricity consumers who shall be liable for the payment of electricity tariffs.

(2) Notwithstanding subsection (1), the Municipality must provide free basic electricity to all registered indigent household consumers in accordance with the Senqu Municipality: Indigent Support and Basic Services Subsidy By-law, 2017.

9 Annual increase in electricity tariffs

The annual increase on the electricity tariffs shall be as determined by the National Energy Regulator of South Africa.

10 Consumer deposit

(1) Every electricity consumer, including a consumer using a pre-paid electrical meter shall pay a consumer deposit determined by the Municipality in each annual budget unless the Council has determined that such consumer is not required to pay a consumer deposit.

(2) A deposit shall be paid prior to the installation, where a new installation is required, or the connection, where electricity is already installed.

11 Effective date for implementation of annual increase in electricity tariff

Electricity tariff adjustments shall be effective from 1 July each year.

CHAPTER 4

WATER SERVICES

12 Applicability of chapter

This chapter shall only come into operation and apply from the date on which the Municipality becomes a water services provider as contemplated in the Water Services Act.

13 Provision of retail water services to customers

(1) The Municipality is responsible for the provision of retail water services to customers in the municipal area and to protect, preserve and maintain the water services infrastructure.

(2) The Municipality must conclude an agreement with each customer for the delivery of water services to that customer.

(3) The—

- (a) the conditions for the provision of water services;
- (b) the technical conditions of supply;
- (c) the installation, alteration, operation, protection and inspection of water services works and customer installations;
- (d) the determination and structure of tariffs in accordance with section 10 of the Water Services Act;
- (e) the payment and collection of money due for the water services
- (f) the circumstances under which water services may be limited or discontinued and the procedure for such limitation or discontinuation; and
- (g) the prevention of unlawful connections to water services works and the unlawful or wasteful use of water.

are prescribed by the water services authority.

14 Levying of water services tariff

(1) The Municipality must charge consumers a monthly water services tariff based on the consumption of the consumer and a fixed charge.

(2) The water services tariff shall be approved by the Council in accordance with the tariff approved by the water services authority in its annual budget.

(3) The structure of the water services tariff is determined in accordance with the norms and standards prescribed in terms of section 10 of the Water Services Act and promulgated by the water services authority.

15 Effective date for implementation of annual adjustments in water services tariff

Water services tariff adjustments shall be effective from 1 July each year.

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CHAPTER 5

REFUSE REMOVAL

16 Categories of refuse removal users

The Municipality must, in its tariff policy, determine the different categories of refuse removal users that shall be liable for the payment of refuse removal tariffs in terms of this By-law

17 Refuse removal tariff

(1) The Municipality must charge the categories of refuse removal users referred to in section 14 a fixed monthly refuse removal tariff which tariff shall be approved by the Council in each annual budget.

(2) The monthly refuse removal tariff shall be based on the costs of the service provided by the Municipality.

(3) The monthly refuse removal tariff may provide for one or two refuse removals per week per category of refuse removal user.

18 Departments of Municipality

The Municipality must charge each of its departments a monthly refuse removal tariff as determined in its tariff policy.

19 Effective date for implementation of annual increase in refuse removal tariff

Refuse removal tariff adjustments shall be effective from 1 July each year.

CHAPTER 6

SUNDRY TARIFFS

20 Standardisation of sundry tariffs

All sundry tariffs shall be standardised within the municipal area.

21 Approval and subsidisation of sundry tariffs

(1) All sundry tariffs shall be approved by the Council in each annual budget and shall, when deemed appropriate by the Council, be subsidised by property rates and general revenues of the Municipality, particularly when –

- (a) the tariff will prove uneconomical when charged to cover the cost of the service concerned;
- (b) the cost cannot be determined accurately; or
- (c) the tariff is designed purely to regulate rather than finance the use of the particular service or amenity.

(2) All sundry tariffs over which the Municipality has full control, and which are not directly related to the cost of a particular service, must annually be adjusted at least in line with the prevailing consumer price index, unless there are compelling reasons why such adjustment should not be effected.

22 Types of sundry services

- (1) The Municipality must, in its tariff policy, determine which services are –
 - (a) subsidised services;
 - (b) community services; and
 - (c) economic services.
- (2) The Municipality may not levy any tariff for a community service.
- (3) The tariff levied for an economic service shall cover 100% of the budgeted annual operating expenses of the service concerned.

23 Regulatory or punitive tariffs

The Municipality must, in addition to the penalties and charges imposed by it in the Senqu Municipality: Credit Control and Debt Collection By-law, 2017, in its tariff policy, determine the types of tariffs which are regulatory or punitive.

24 Deposit

The Council must annually determine the amount of deposit required for the rental of municipal halls, premises and sport fields and shall be guided in this determination by the likelihood of the Municipality sustaining damages as a result of the use of the facilities concerned.

25 Effective date for implementation of annual increase in sundry tariffs

Sundry tariff adjustments shall be effective from 1 July each year.

CHAPTER 7

GENERAL MATTERS

26 Community participation process

- (1) For the purposes of the adoption of the tariff policy community participation must be undertaken in accordance with the provisions of section 4 of the Act.
- (2) Community participation in any amendments to the tariff policy as a result of the annual review of thereof as required by section 5 of the Act, must be effected through the Municipality's annual budget process in terms of sections 22 and 23 of the Municipal Finance Management Act.

27 Appeals

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000.

28 Repeal of by-laws

The Tariff Policy By-Law published in the *Provincial Gazette* by Notice Number 53 of 2006 is hereby repealed.

29 Short title and commencement

This By-law shall be known as the Senqu Municipality: Tariffs By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.