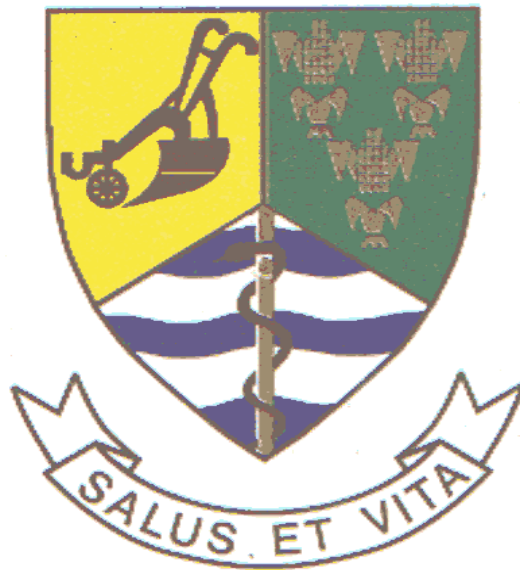


# **BELA-BELA MUNICIPALITY**



## **TARIFF BY-LAW**

**2016-2017**



## Table of Contents

<b>1. DEFINITIONS AND ABBREVIATIONS .....</b>	<b>- 2 -</b>
<b>2. PREAMBLE .....</b>	<b>- 4 -</b>
<b>3. PURPOSE OF THE BY-LAW .....</b>	<b>- 5 -</b>
<b>4. TARIFF PRINCIPLES .....</b>	<b>- 5 -</b>
<b>5. DIFFERENTIATION BETWEEN CONSUMERS AND GRANTING OF EXEMPTIONS .....</b>	<b>- 6 -</b>
<b>6. CATEGORIES OF CONSUMERS .....</b>	<b>- 7 -</b>
<b>7. COST ELEMENTS .....</b>	<b>- 7 -</b>
<b>8. DEPOSITS .....</b>	<b>- 7 -</b>
<b>9. TARIFF TYPES .....</b>	<b>- 7 -</b>
<b>2. UNITS OF MEASUREMENT AND METHOD OF CALCULATION.....</b>	<b>- 8 -</b>
<b>3. SUNDRY TARIFFS .....</b>	<b>- 8 -</b>
<b>4. PHASING IN OF TARIFFS, FEES AND LEVIES.....</b>	<b>- 8 -</b>
<b>5. ENFORCEMENT MEASURES .....</b>	<b>- 8 -</b>
<b>6. REPEAL OF BY-LAW.....</b>	<b>- 8 -</b>
<b>7. SHORT TITLE AND COMMENCEMENT .....</b>	<b>- 8 -</b>



## 1. DEFINITIONS AND ABBREVIATIONS

**“Accounting Officer”** means the Municipal Manager appointed in terms of Section 60 of the Municipal Finance Management Act.

**“Annual budget”** shall mean the budget approved by the municipal council for any particular financial year, and shall include any adjustments to such budget.

**“Basic municipal services”** shall mean a municipal service necessary to ensure an acceptable and reasonable quality of life, which service – if not provided – would endanger public health or safety or the environment.

**“By-law”** shall mean legislation passed by the council of the municipality, and which shall be binding on the municipality and on the persons and institutions to which it applies.

**“Consumer price index”** shall mean the CPIX as determined and gazetted from time to time by the South Bureau of Statistics.

**“Chief Financial Officer”** means a person designated in terms of section 80(2) (a) of the Municipal Finance Management Act.

**“Councillor”** shall mean a member of the council of the municipality.

**“Domestic consumer or user”** of municipal services shall mean the person or household which municipal services are rendered in respect of “residential property” as defined below.

**“Financial year”** shall mean the period starting from 1 July in any year and ending on 30 June of the following year.

**“Integrated development plan”** shall mean a plan formulated and approved as envisaged in Section 25 of the Municipal Systems Act 2000, as amended.

**“Local community”** or **“community”**, in relation to the municipality, shall mean that body of persons comprising the residents of the municipality, the ratepayers of the municipality, any civic organisations and non-governmental, private sector or labour organisations or bodies involved in local affairs within the municipality, and visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality.



“Month” means one of twelve months of a calendar year.

“Municipality” or “municipal area” shall, where appropriate, mean the geographic area, determined in terms of the Local Government: Municipal Demarcation Act No. 27 of 1998 as the municipal area pertaining to the municipality.

“the municipality” means Bela Bela Local Municipality.

“Municipal council” or “council” shall mean the municipal council of Dr JS Moroka Local Municipality as referred to in Section 157(1) of the Constitution.

“Municipal entity” shall mean (a) a company, co-operative, trust, fund or any other corporate entity established in terms of any applicable national or provincial legislation, and which operates under the ownership control of one or more municipalities; or (b) a service utility.

“Municipal Manager” shall mean the person appointed in terms of Section 82 of the Municipal Structures Act, 1998.

“Multiple purposes” in relation to a property, shall mean the use of a property for more than one purpose.

“Municipal service” has the meaning assigned to it in terms of Section 1 of the Municipal Systems Act.

“Municipal tariff” shall mean a tariff for services which the municipality may set for the provision of a service to the local community, and may include a surcharge on such service. Tariffs for major services shall mean tariffs set for the supply and consumption or usage of electricity, water, sewerage and refuse removal, and minor tariffs shall mean all other tariffs, charges, fees, rentals or fines levied or imposed by the municipality in respect of other services supplied including services incidental to the provision of the major services.

“Occupier” in relation to a property, shall mean a person in actual occupation of the property, whether or not that person has a right to occupy the property.

“Owner” (a) in relation to a property referred to in paragraph (a) of the definition of “property”, shall mean a person in whose name ownership of the property is registered; (b) in relation to a right referred to in paragraph (b) of the definition of “property”, shall mean a person in whose name the right is registered; (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property”, shall mean a person in whose name the right is registered or to whom it



was granted in terms of legislation; and (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, shall mean the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, provided that a person mentioned below may for the purposes of the Property Rates Act 2004 be regarded by the municipality as the owner of a property in the following cases:-

- a) a trustee, in the case of a property in a trust, but excluding state trust land;
- b) an executor or administrator, in the case of a property in a deceased estate;
- c) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- d) a judicial manager, in the case of a property in the estate of a person under judicial management;
- e) a curator, in the case of a property in the estate of a person under curatorship;
- f) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- g) a lessee, in the case of a property that is registered in the name of the municipality and is leased by it; and
- h) A buyer, in the case of a property sold by the municipality and of which possession was given to the buyer pending registration of ownership in the name of such buyer.

“**Rate**” shall mean a municipal rate on property as envisaged in Section 229(1) (a) of the Constitution.

“**Rateable property**” shall mean property on which the municipality may in terms of Section 2 of the Property Rates Act 2004 levy a rate, but excluding property fully excluded from the levying of rates in terms of Section 17 of that Act.

“**Ratepayer**” shall mean a person who is liable to the municipality for the payment of (a) rates on property in the municipality; (b) any other tax, duty or levy imposed by the municipality; and/or (c) fees for services provided either by the municipality or in terms of a service delivery agreement.

“**Rebate**” in relation to a rate payable on a property, shall mean a discount granted in terms of Section 15 of the Property Rates Act 2004 on the amount of the rate payable on the property.

“**Residential property**” shall mean a property included in the valuation roll in terms of Section 48(2) (b) of the Property Rates Act 2004 as residential.

“**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.

## **2. PREAMBLE**

Under the provision of section 15(2) 6 of the Constitution of the Republic of South Africa, 1996, Bela Bela Local Municipality enacts this tariff by-law as follows:



### **3. PURPOSE OF THE BY-LAW**

- a) To comply with the provision of Section 74(2) of the Local Government, Municipal Systems Act of,2000(Act 32, 2000), and
- b) To give guidance regarding tariff proposals which must be submitted to council annually during budget process.

### **4. TARIFF PRINCIPLES**

- a) The tariff principles set out in section 74(2) of the Municipal Systems Act, as well as principles adopted by the municipality in its annual tariff policy shall apply.
- b) Service tariffs imposed by the Bela Bela Municipality shall be viewed as user charges and not as taxes, and therefore the ability of the relevant consumer or user of the services to which such tariffs relate, shall not be considered as a relevant criterion (except in the case of the indigent relief measures approved by the municipality from time to time).
- c) The municipality shall ensure that its tariffs are uniformly and fairly applied throughout the municipal area in accordance with the various levels of services.
- d) Tariffs for the four major services rendered by the municipality, namely:-
  - Electricity;
  - Water;
  - Sewerage; and
  - Refuse Removal

Shall 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. Such surplus shall be applied in relief of property rates or for the future capital expansion of the service concerned, or both.

- e) The tariff which a particular consumer or user pays shall therefore be directly related to the standard of service received and the quantity of the particular service used or consumed.
- f) The municipality has developed, approved and annually review the indigent support programme for the municipal area. This programme set out clearly the municipality's cost recovery policy in respect of the tariffs which it levies on registered indigents, and the implications of such policy for the tariffs which it imposes on other users and consumers in the municipal area.
- g) In line with the principles embodied in the Constitution and in other legislation pertaining to local government, the municipality may differentiate between different categories of users and consumers in regard to the tariffs which it levies. Such differentiation shall, however, at all times be reasonable, and shall be fully disclosed in each annual budget.
- h) The municipality's tariff policy shall be transparent, and the extent to which there is cross-subsidisation between categories of consumers or users shall be evident to all consumers or users of the service in question.
- i) The municipality further undertakes to ensure that its tariffs shall be easily explainable and understood by all consumers and users affected by the tariff policy concerned.
- j) The municipality also undertakes to render its services cost effectively in order to ensure the best possible cost of service delivery.



- k) In the case of a directly measurable service such as electricity or water, the consumption of such service shall be properly metered by the municipality, and meters shall be read, wherever circumstances reasonably permit, on a monthly basis. The charges levied on consumers shall be proportionate to the quantity of the service which they consume.
- l) In addition, the municipality shall levy monthly availability (where the services are available but not connected)/ or basic charges for the services concerned and these charges shall be fixed for each type of property as determined in accordance with its appropriate policies. Availability charges are also applicable to sewer services.

Generally, consumers of electricity and water shall therefore pay the following charges:-

- i. A basic charge which is unrelated to the volume of consumption and is levied because of the availability of the service concerned; and
  - ii. A consumption charge directly related to the consumption of the service in question; or
  - iii. A flat rate (no basic charge) in the case where the consumption is not metered.
  - iv. Average charge based on prior consumption history where meter was not read or a rendering of service was not completed and submitted to the municipality.
- m) In considering the costing of its electricity, water and sewerage services, the municipality shall take due cognisance of the capital cost of establishing and expanding such services.
  - n) In adopting what is fundamentally a two-part tariff structure, namely a basic/ availability charge coupled with a charge based on consumption, the municipality believes that it is properly attending to the demands which both future expansion and variable demand cycles and other fluctuations will make on service delivery.

## **5. DIFFERENTIATION BETWEEN CONSUMERS AND GRANTING OF EXEMPTIONS**

1. In accordance with the principles embodied in the Constitution and the provisions of the sections 74(3) and 75 of the Local Government: Municipal Systems Act, 2000, the municipality may differentiate between different categories of users, debtors, service providers, services standards and geographical areas, however, such differentiation must at all times be reasonable, and must be fully disclosed in each annual budget.
2. The municipality may, in writing exempt a consumer, category of consumers, or other persons from complying with a provision of this by-law, subject to any conditions it may impose;
3. The municipality may not grant exemption from any section of this by-law that may result in –
  - a) The wastage or excessive consumption of water or electricity;
  - b) The evasion or avoidance of water or electricity restrictions;
  - c) Significant negative effects on public health, safety or the environment;
  - d) The non-payment for services;
  - e) Installation of pipes and fitting which are not acceptable in terms of the municipality's prescribed standards;
  - f) Any Act, or any regulation made under it, not being complied with.
4. The municipality may at any time give a written notice of at least 30 days, withdraw any exemption given under subsection(2)



## **6. CATEGORIES OF CONSUMERS**

1. The Tariff structure of the municipality may make provision for the following categories of consumers:
  - a) Residential/Domestic;
  - b) Commercial;
  - c) Industrial;
  - d) Agricultural;
  - e) Municipal services;
  - f) Governmental (schools, hospitals etc);
  - g) Places of worship (churches);
  - h) Consumers who do not fall under any abovementioned categories and with whom special agreements were entered into;
2. Where there is substantial difference between the infrastructure used to provide the service to a specific group of users within a category or standard services provided, may after considering a report by the MM or relevant Head of Department, determine differentiated tariff for that specific category.
3. The differentiation must be based on one or more of the following elements:
  - a) Infrastructure cost;
  - b) Volume usage or;
  - c) Availability and service standard.

## **7. COST ELEMENTS**

1. To determine the total cost of the service the Chief Financial Officer must create cost drivers, based on the service and expenditure classification prescribed by the National Treasury.
2. The following cost elements may be used to calculate the tariffs –
  - a) Fixed costs, which consists of the capital costs (interest and redemption) on the external as well as internal advances or depreciation, whichever are applicable on the service and any other costs of the permanent nature as determined by Council from time to time;
  - b) Variable costs, which includes all other variable cost that have reference to the service; and
  - c) Total cost that is equal to the fixed plus the variable cost.

## **8. DEPOSITS**

On approval of an application and before a service is made available, the municipality may require the applicant to pay a deposit as required in terms of the Tariff policy and Credit Control By-law.

## **9. TARIFF TYPES**

1. In determining the type of tariff applicable to the type of service, the municipality may use the following options, including, but not limited to –
  - a) Single /fixed tariff;
  - b) Step tariff;
  - c) Cost related to two-to-four part tariff;
  - d) Availability charges, provided that once the municipality has provided a connection, normal tariff are payable for the respective services provided.
- 1) The municipality may also use a combination of any of the options contemplated in subsection (1).



## **2. UNITS OF MEASUREMENT AND METHOD OF CALCULATION**

- a) The units of measurement and method of calculation must be revised annually as part of the budget process and must be reflected in the tariff policy.
- b) In relation to subsection 3(k), in the case of a directly measurable service such as electricity or water, the consumption of such service shall be properly metered by the municipality, and meters shall be read, wherever circumstances reasonably permit, on a monthly basis.

## **3. SUNDRY TARIFFS**

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, particularly when the tariffs will prove uneconomical when charged to cover the cost of the service concerned, or when the cost cannot accurately be determined, or when the tariff is designed purely to regulate rather than finance the use of the particular service or amenity.

## **4. PHASING IN OF TARIFFS, FEES AND LEVIES**

Where newly calculated tariffs, fees and levies differ substantially from the current tariffs fees and levies, the Council may resolve to phase in the differences over a period of time so as to ease the burden on consumers.

## **5. ENFORCEMENT MEASURES**

The municipality may, subject to the provisions of the Credit Control and Indigent By-law, have the right to recover any amount due for consumption of services in terms of this By-law from the Owner of the property where a tenant or other occupier of such a property fails to do so.

## **6. REPEAL OF BY-LAW**

The provisions of any by-law previously promulgated by the municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

## **7. SHORT TITLE AND COMMENCEMENT**

This by-law shall be known as the Tariff By-law and shall come into operation upon publication thereof in the Provincial Gazette.