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## LOCAL AUTHORITY NOTICE

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### LOCAL AUTHORITY NOTICE 189

#### CITY OF MATLOSANA

#### DRAFT BY-LAWS

Notice is hereby given in terms of the provisions of section 13 of the Local Government: Municipal Systems Act, 2000, as amended, that it is the intention of the City of Matlosana to adopt the following draft by-laws:

Tariff By-Laws  
Rates By-Laws  
Customer Care, Credit Control & Debt Collection By-Laws

A copy of the draft By-Laws will lie open for inspection at the following Council offices:

- Room 47, Mayibuye Centre, Klerksdorp (Water and Lights offices)
- All Libraries

during normal office hours for a period of thirty (30) days from the date of publication of this notice on 28 May 2009 to 28 June 2009.

Any person who wishes to comment on the draft By-Laws must submit it in writing during the inspection period with the undersigned.

P O Box 99  
Civic Centre  
**KLERKSDORP**  
Notice No 116/2009

M M MOADIRA  
**MUNICIPAL MANAGER**

21 May 2009

Government Gazette  
Vote number: 2060201050003

## **CITY OF MATLOSANA** **Draft Rates By-Law**

The Municipal Manager of the City Council of Matlosana hereby, in terms of Section 6 Property Rates Act read with Section 13 (a) of the Local Government: Municipal Property Rates Act, (Act No. 6 of 2004) publishes the Rates Policy By-Laws of the City Council of Matlosana, as approved by its Council as set out hereunder.

### **1. PREAMBLE**

- (1) Section 229(1) of the Constitution authorizes a municipality to impose rates on property and surcharges on fees for services provided by or on behalf of the municipality.
- (2) In terms of section 3 of the Property Rates Act, a municipal council must adopt a policy consistent with the Property Rates Act on the levying of rates on rateable property in the municipality.
- (3) In terms of section 6(1) of the Property Rates Act, a municipality must adopt by-laws to give effect to the implementation of its rates policy.
- (4) In terms of section 6(2) of the Property Rates Act, by-laws adopted in terms of section 6(2) may differentiate between different categories of properties; and different categories of owners of properties liable for the payment of rates.

### **2. INTERPRETATION**

- |                             |   |
|-----------------------------|---|
| <b>“COM”</b>                | - means the City Council of Matlosana   |
| <b>”Rates policy”</b>       | - means a rates policy adopted by the City Council in terms of this By-Laws.          |
| <b>”Property Rates Act”</b> | - means the Local Government: Municipal Property Rates Act, 6 of 2004                 |
| <b>“Constitution”</b>       | - means the Constitution of the Republic of South Africa.                             |
| <b>“Rate of rates”</b>      | - means a municipal rate on property as envisaged in Section 229 of the Constitution. |

### **3. ADOPTION AND IMPLEMENTATION OF RATES POLICY**

- (1) The Com shall adopt and implement a rates policy consistent with the Property Rates Act on the levying of rates on rateable property in the municipality.
- (2) The Com shall not be entitled to levy rates other than in terms of a valid rates policy.

### **4. CONTENTS OF RATES POLICY**

The Com rates policy shall, *inter alia*:

- (1) apply to all rates levied by the Com pursuant to the adoption of the Com's annual budget;
- (2) comply with the requirements for:-
  - (a) the adoption and contents of a rates policy specified in section 3 of the Property Rates Act;
  - (b) the process of community participation specified in section 4 of the Property Rates Act;
  - (c) the annual review of a rates policy specified in section 5 of the Property Rates Act;
- (3) specify any further principles, criteria and implementation measures consistent with the Property Rates Act for the levying of rates which the Com may wish to adopt;
- (4) include such further enforcement mechanisms, if any, as the Com may wish to impose in addition to those contained in the Credit Control and Debt Collection By-Law and Policy.

### **5. ENFORCEMENT OF RATES POLICY**

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

### **6. OPERATIVE DATE**

This By-Law will only become effective on the date of Promulgation in the Provincial Gazette, which will be in the first week of July 2009.

# CITY OF MATLOSANA

## CUSTOMER CARE, CREDIT CONTROL & DEBT COLLECTION BY-LAWS

## *PREAMBLE*

***Whereas** the Council has adopted a credit control and debt collection policy on 01 July 2009-*

***And whereas** section 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) provides that a municipal council must adopt a Customer Care, Credit Control and Debt Collection Policy and By-laws to give effect to that policy, and its implementation and enforcement;*

***Now therefore** the Council resolved to adopt the following by-laws:*

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## CHAPTER 1

### DEFINITIONS AND MISCELLANEOUS PROVISIONS

#### 1. Definitions

For the purpose of these by-laws any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in these by-laws, and unless the context indicates otherwise –

“**Act**” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;

“**authorized officer**” is any person in the service of the municipality charged with the necessary authority to perform certain actions on behalf of the municipality

“**equipment**” includes a building, structure, pipe, pump, wire, cable, meter, machine or any fitting.

“**billing**” means proper and formal notification by means of a statement of account to persons liable for monies levied for assessment rates and other taxes and the charges or the fees for municipal services and indicating the net accumulated balance of the account;

“**council**” is the municipal council of the City of Matlosana;

“**credit control and debt collection**” means the functions relating to the collection of any monies due and payable to the Municipality;

“**customer**” means any occupier of any premises to which the Municipality has agreed to supply or is actually supplying services, or if there is no occupier, the owner of the premises;

“**customer care**” means focusing on the client's needs in a responsible and pro-active way to encourage payment and to create a positive and

reciprocal relationship between persons liable for the payment of services and the Municipality, and when applicable, a service provider, thereby limiting the need for enforcement, as far as practicably possible;

**"debt"** means any money owing to the Municipality in respect of the rendering of municipal services and includes money owing in regard to property rates, housing and any other sundry amounts inclusive of interest thereon, owing to the Municipality

**"defaulter"** means a person owing the Municipality money in respect of taxes and/or services rendered after the final date of payment;

**"due date"** means the final date on which a payment, as shown on the debtor's municipal account is due and payable.

**"chief financial officer"** means a person appointed by the Council to manage the Council's financial administration;

**"interest"** constitutes a levy equal in legal priority to service levies and is calculated on all amounts in arrears in respect of annual levies or service charges, at a standard rate equal to an interest rate of fifteen per cent per annum.

**"municipal account"** shall include levies or charges in respect of the following services and taxes:

- (a) electricity consumption,
- (b) water consumption,
- (c) refuse removal,
- (d) sewerage services,
- (e) rates,
- (f) interest;
- (g) surcharge;
- (h) collection fees;
- (i) housing rentals and installments,
- (j) miscellaneous and sundry charges.

**“Municipal Manager”** means the person appointed by the Municipal Council as the Municipal Manager of the Municipality in terms of Section 82 of the Local Government Structures Act, 1998 (Act 117 of 1998) and who is also the accounting officer in terms of the Local Government: Municipal Finance Management Act, No 56 of 2003 also includes any person:

- (a) acting in such position; and
- (b) to whom the Municipal Manager has delegated a power, function or duty;

**“occupier”** means any person who occupies any premises or part thereof, without any regard to the title under which he or she so occupies;

**“owner”** means -

- (a) the person in whom the legal title to the premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to -
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above provisions, the developer or the body corporate in respect of the common property;
  - or

- (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, including the lawfully appointed representative of such person;
- (f) any legal person including but not limited to:
  - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust *inter vivos*, Trust *mortis causa*, a closed corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984), and a Voluntary Association.
  - (ii) any government department
  - (iii) any council or board established in terms of any legislation applicable to the Republic of South Africa.
  - (iv) any Embassy or other foreign entity.
- (g) owned by a council and which has been disposed of, but which has not been transferred to the person to whom it has been disposed of, from the date of the disposition concerned, such person; and
- (h) owned by or under the control or management of a council while held under a lease or any express or tacit extension thereof or under any other contract or under a servitude or right analogous thereto, the person so holding the immovable property.

**"premises"** includes any piece of land, the external surface boundaries of which are delineated on -

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act 9 of 1927) or in terms of the Deeds Registry Act, 1937 (Act 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), which is situated within the area of jurisdiction of the Municipality;

**"this By-law"** includes the Customer Care Credit Control and Debt Collection Policy

## **2. Signing Of Notices and Documents**

A notice or document issued by the Municipality in terms of this by-law and signed by an official of the Municipality shall be deemed to be duly issued and shall on its mere production be accepted by a court as evidence of that fact.

## **3. Authentication of Documents**

- (1) Every order, notice or other document requiring authentication by the Municipality shall be deemed to be sufficiently authenticated if signed by the Municipal Manager or by a duly authorised officer of the Municipality; such authority being conferred by a resolution of council or by a regulation.
- (2) Delivery of a copy of such document shall be deemed to be delivery of the original.

## **4. Full and Final Settlement of an Amount**

- (1) The chief financial officer may appropriate any monies received in respect of any municipal services as he/she deems fit;
- (2) Where the amount due and payable to the Municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal employee shall not be deemed to be in final settlement of such an amount.
- (3) The provisions in clause 4(2) above shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full settlement.
- (4) The chief financial officer or his or her delegate shall consent in writing before the lesser amount can be accepted as full settlement for the amount owing.

## **5. Interest Charges/Surcharge Levies**

- (1) The chief financial officer shall charge and recover interest/surcharges in respect of any arrears due and payable to the Municipality.

## **6. Prima Facie Evidence**

- (1) In legal proceedings instituted by the Municipality, a certificate reflecting the amount due and payable to the Municipality, signed by the Municipal Manager, or suitably qualified municipal official authorized by the Municipal Manager, shall upon mere production thereof be accepted by any court of law as *prima facie* evidence of the indebtedness of that amount.

## **CHAPTER 2**

### **POWER OF MUNICIPALITY TO RECOVER COSTS**

#### **7. Dishonoured Payments**

- (1) Where any payment made to the Municipality by negotiable instrument is later dishonoured by a bank, the chief financial officer may levy all related costs against the account of the defaulter. Following successive dishonoured payments, the relevant instrument may be refused by the chief financial officer or his/her proxy.

#### **8. Cost of Collection and Service Fees**

- (1) All costs of legal process, including interest, penalties, service discontinuation costs and costs associated with consumer care or credit control, where ever applicable, are for the account of the debtor.

#### **9. Cost Incurred In Reminding Debtors of Arrears**

- (1) A charge may be levied against the account of a debtor at a rate determined by council from time to time in respect of any action taken in demanding payment from a debtor or reminding a debtor, whether by means of telephone, fax, e-mail, letter or otherwise, that his or her payments are in arrear.

## **10. Disconnection and Reconnection Fees**

- (1) Where any service appears on the disconnection list for disconnection as a result of non-compliance with this by-law by the person liable for the payments, the chief financial officer shall levy and recover the standard disconnection fee as determined by the council from time to time, irrespective of whether the service has been disconnected / terminated or not.
  
- (2) Where any service appears on the reconnection list to be reconnected, after the person liable for the payment of the service has paid the full outstanding account or made a satisfactory arrangement for the payment thereof, or has applied for a new service, the chief financial officer must levy and recover the standard re-connection fee, as determined by the Council from time to time.

## **11. Accounts**

- (1) The chief financial officer may, in respect of accounts of the Municipality, take any steps contemplated in Section 102(1) of the Act.

## **CHAPTER 3**

### **SERVICE AGREEMENTS AND GENERAL TERMS AND CONDITIONS FOR THE PROVISION OF MUNICIPAL SERVICES**

#### **12. Provision of Services to New Customers and Deposits**

No services shall be supplied to new applicants unless and until application for such services has been made and a service agreement has been entered into between the applicant and the Municipality and an amount equal to the amount fixed by the council from time to time, in full cash, has been deposited as security.

#### **13. Provision of Services to Defaulters and Deposits**

- (1) No supply of services to previous defaulters shall be rendered unless and until application has been made and a service agreement has been entered into between the applicant and the Municipality and a cash deposit as security equal to an amount determined by Council from time to time, has been paid. Should monies be outstanding in respect of previous agreements, the applicant must settle such monies in full or conclude an acceptable installment payment agreement before such services will be rendered.
- (2) The consumer deposit may be increased to twice the average monthly consumption of the past 3 months with a minimum as determined annually according to the tariff schedule should a consumer default with their arrangement.

#### **14. General Terms and Conditions for the Provision of Municipal Services**

- (1) The general terms and conditions for the supply of municipal services set out in Council's policy document, shall apply to the provision of municipal services to customers.

## **15. New Applications and Deposits by Existing Customers**

Existing municipal customers may be required by the Municipal Manager to enter into new service agreements and to deposit moneys as contemplated in Clauses 12 and 13 or submit guarantees.

## **16. Notice of Intension to Terminate the Service Agreement**

The municipality and consumer must give written notice of intention to terminate the service agreement.

## **17. Failure to Comply With a Request to Enter Into a Service Agreement or to Make a Deposit**

- (1) If a consumer of municipal services fails or refuses to comply with a request to enter into a new service agreement or to make a deposit as contemplated in Clauses 13 and 14, any municipal service to such consumer may be terminated until the required agreement has been entered into and the deposit paid in full.
- (2) The consumer will also be liable for services already used, cost incurred and any other further cost resulting from the collection from service fees and cost incurred.

# **CHAPTER 4**

## **COLLECTION OF ARREARS**

### **18. Power to Restrict or Terminate Supply of Services**

- (1) An authorised officer or any duly appointed agent may, on request by the Municipal Manager or his/her delegate, restrict, the supply of water and disconnect or terminate the electricity or discontinue any other service to any premises whenever a user of any service:
  - (a) fails to make full payment on the final date of payment or fails to make acceptable arrangements for the repayment in installments of the municipal account;

- (b) fails to comply with the conditions of the provision of services, as imposed by the Municipality;
  - (c) obstructs the effective supply of electricity, water or any other municipal service to another customer or allows such supply to be obstructed;
  - (d) supplies such municipal service to a customer who is not entitled thereto or permits such service to continue;
  - (e) causes a situation, which in the opinion of the municipal engineer, is dangerous or constitutes a contravention of any relevant legislation;
  - (f) in any way bridges the supply of previously disconnected services or allows such supply to be bridged;
  - (g) is placed under provisional sequestration, liquidation or judicial management, or has been declared insolvent in terms of the Insolvency Act, 1936 (No. 24 of 1936);
  - (h) is subject to an administration order granted in terms of Section 74 of the Magistrates Court Act, 1944 (Act 32 of 1944) in respect of such user.
- (2) An authorised officer or any duly appointed agent shall have the power to reconnect or restore full levels of supply of any of the restricted or discontinued services on the instruction of the chief financial officer after the full amount outstanding, including the costs of such disconnection and reconnection, if any, have been paid in full or arrangements have been made in terms of the Municipality's Customer Care, Credit Control and Debt Collection Policy.
- (3) The authority of an authorised officer or any duly appointed agent to restrict water to any premises or customer shall be subject to the provisions of section 4 of the Water Services Act, 1997 (Act 108 of 1997), this bylaw and the service agreement entered into between the consumer and the municipality.
- (4) The right of the Municipality to discontinue the provision of electricity to any consumer shall be subject to the provisions of the Electricity Act, 1987 (Act No. 41 of 1987), this bylaw and the

service agreement entered into between the consumer and the municipality.

- (5) The right of the Municipality to restrict, disconnect or terminate any services due to non-payment for any other service or assessment rates shall be valid in respect of any service rendered by the Municipality, and shall also prevail notwithstanding the fact that payment has purportedly been made in respect of any specific service, notwithstanding the fact that the person who entered into agreement for supply of services with the Municipality and the owner are different entities or persons, as the case may be.

## **19. Municipality's Right of Access to Premises**

The Municipality may exercise its right of access to premises in terms of Section 101 of the Act through its authorised officer or agent of the Municipality authorised thereto in writing by any of the aforementioned officials after the written authority has been presented to the consumer or owner.

## **20. Arrangements to Pay Outstanding and Due Amounts in Consecutive Installments**

- (1) The chief financial officer may enter into a written agreement with a consumer to repay any outstanding and due amounts under the following conditions:
  - (a) the outstanding balance, collection costs and any interest shall be paid in regular and consecutive monthly installments on or before the final date of payment;
  - (b) the written agreement has to be approved and signed by both the consumer and an authorized officer on behalf of the Municipality.
- (2) Should any dispute arise as to the amount owing by an owner or consumer in respect of municipal services, the owner or consumer shall, notwithstanding such dispute, proceed to make regular minimum payments based on the calculation of the average municipal account of the owner/consumer for the

preceding three months or the similar usage in the same period in the preceding year prior to the arising of the dispute, taking into account interest and collection costs as well as the annual amendments of tariffs of the Municipality.

## **21. Reconnection of Services**

The chief financial officer or his/her proxy shall authorise any reconnection of services or reinstatement of service delivery after satisfactory arrangements for payment of amounts in arrear have been made according to the Municipality's Customer Care, Credit Control and Debt Collection Policy.

## **CHAPTER 5**

### **INDIGENT SUPPORT**

## **22. Indigent Consumers**

- (1) Indigent consumers who qualify for support in terms of the Municipality's Indigent Policy shall apply in writing by completing, signing and submitting of the prescribed form.
- (2) The Conditions of subsidies to poor households, as determined by Council from time to time shall be attached to the application for subsidies for poor households, and shall apply to all households that qualify for such subsidy.
- (3) An authorized municipal official or any legally pointed agent shall counter-sign the application and attest that the consequences of the declaration made by the applicant were properly explained to him/her and that he/she indicated that-
  - (a) the contents of the declaration was understood; and
  - (b) that if the statement were found to be untrue, he/she would automatically be disqualified from receiving any subsidy and would also be liable for the immediate repayment of any subsidy received and may have criminal proceedings instituted against him/her.

- (4) The chief financial officer shall ensure that regular random *on site* audits are carried out by authorized municipal officials or any duly appointed agents to verify the information supplied by applicants on application forms, by visiting the properties occupied by the households receiving support for the poor and by gathering the relevant information by completing the prescribed form.

## **CHAPTER 6**

### **ASSESSMENT RATES AND ANNUAL SERVICE LEVIES**

#### **23. Amount Due in Respect of Assessment Rates and Annual Service Levies**

- (1) All assessment rates and annual service levies due by property owners are payable on the final date of payment.
- (2) Joint owners of property shall be jointly and severally liable for payment of assessment rates and annual service levies.
- (3) Property rates must be paid monthly over a maximum period of twelve months.

#### **24. Claim on Rental for Payment of Assessment Rates and Annual Service Levies in Arrears**

The Municipal Manager or his/her proxy in terms of section 28 of the Municipal Property Rates Act No 6 of 2004 may attach any rent, that is or may become due in respect of rateable property, to cover in part or in full any amount outstanding in respect of assessment rates and annual service levies after the fixed due date.

#### **25. Liability of Company Directors for Payment of Assessment Rates and Annual Service Levies**

Where a company, trust, close corporation or a body corporate in terms of the Sectional Titles Act, 1986 (Act 95 of 1986) is responsible for the payment of any arrears to the Municipality, the liability for the payment of such amounts shall be extended to the directors, trustees or

members of the body corporate jointly and/or severally, as the case may be.

**26. Disposal of Municipality's Property and Payment of Assessment Rates and Annual Service Levies**

- (1) The purchaser of Municipal property is *pro rata* liable for the payment of assessment rates and annual service levies on the property as from the date of the signing of the purchase agreement or from the date of registration in the name of the purchaser in respect of the financial year in which the purchaser becomes the new owner, in terms of the provision of the purchase agreement.
- (2) In the event that the Municipality repossesses the property, any outstanding in respect of assessment rates shall be recovered from the purchaser.

**27. Assessment Rates and Annual Service Levies Payable on Municipal Property**

- (1) The lessee of municipal property is responsible for payment of any general assessment rates and annual service levies payable on the property for the duration of the lease, as if the lessee were the owner of such property.
- (2) Council may suspend the condition contained in clause 27(1) in certain cases.
- (3) The chief financial officer shall have the power to include the assessment rates and annual service levies in respect of municipal property in the rent payable by the lessee, instead of billing it separately as in the case of owners of properties.

## **CHAPTER 7**

### **PROVISION IN RESPECT OF THE PAYMENT OF ACCOUNTS**

#### **28. Fees**

- (1) Tariffs are determined by the Council in terms of Section 75(a) of the Local Government: Municipal Systems Act, Act 32 of 2000, or any other valid legislation in this regard.
- (2) The fees as determined by the Council are due and payable by the customer to whom a service is provided or, should he or she default on payment, by the owner of the fixed property.
- (3) Where fixed property, or a section thereof which is occupied separately, is separately serviced, the minimum fees as determined by the Council shall be payable by the occupier or, should he or she default on payment, by the owner in respect of such fixed property or section thereof that is occupied separately.

#### **29. Payment of Accounts**

- (1) The amount payable to the Council in respect of rates and/or services rendered, shall be payable on or before 15:30 on the last date of payment, failing which interest and collection costs shall be levied on such monies.
- (2) Payment, excluding payments made at Council's offices, such as bank deposits and electronic transfers directly deposited into the Council's bank account, shall be deemed to have been received before 15:30 if the transaction is reflected on the Council's bank account on the last date of payment.
- (3) Payments received by agents appointed to receive payments on behalf of the Council, shall be deemed to have been received before 15:30 on the last date of payment if such transactions are received by the Council from the relevant agent on the morning following the last date of payment.
- (4) The fact that an account does not reach a consumer, shall not exempt him/her from making a payment on or before the last date of payment.

- (5) If the correctness of an account is queried the consumer must pay the average consumption over the last three months until the dispute has been examined and settled.
- (6) If an account is not settled on the last date of payment, the provisions of Clause 18 shall apply.

## **CHAPTER 8**

### **DIFFERENTIATION**

#### **30. Power to differentiate between different categories of rate payers**

The municipality may differentiate between different categories of ratepayers, users of services, customers, debtors, taxes, services, service standards and other matters.

#### **31. Conditions for differentiation**

Any such differentiation intended in Clause 30 shall be upon such conditions as the Council may deem fit to impose, if it is of the opinion that the application or operation of that provision in that instance would be unreasonable.

## **CHAPTER 9**

### **MIXED PROVISIONS**

#### **32. Reporting of defaulters**

The Municipal Manager or his proxy may in his or her discretion report any debtors who owe the Municipality monies to bodies, such as credit bureaus, that collate and keep such information. The information be included in such a report shall be the available personal information on the defaulter, or in the event of a legal person, the available statutory details, including information pertaining to the responsible officer of such legal person.

### **33. Repeal of by-laws**

The provisions of any by-law of the Municipality relating to the control of credit and debt collection are hereby repealed insofar as they deal with matters that are regulated in these by-laws and those provisions are in conflict with any provision contained in these by-laws.

### **34. Offences**

- (1) Any person who –
  - (a) fails to give access required by an authorized officer or duly appointed agent in terms of this by-law;
  - (b) obstructs or hinders an authorized officer or duly appointed agent in the exercising of his/her powers, functions or duties under this by-law;
  - (c) illegally uses or interferes with municipal equipment or wastes the services supplied;
  - (d) tampers or breaks any seal on a meter or on any equipment belonging to the Municipality or in any way causes a meter not to properly register the services used or allows such tampering, breakage or action that causes a meter not to register properly;
  - (e) fails or refuses to give an authorized officer or duly appointed agent of the Municipality such information as may reasonably be required for the purpose of exercising the powers or functions under these by-laws or gives such an officer or agent false or misleading information, knowing it to be false or misleading;
  - (f) contravenes or fails to comply with a provision of this by-law;
  - (g) fails to comply with the terms of a notice served upon him/her in terms of the provisions of these by-laws;
- (2) Shall be guilty of an offence and liable upon conviction for community service for a period not exceeding six months or a fine determined by a Court of Law or a combination on the aforementioned.

- (3) Any person convicted for contravening Clause 34(1)(d), shall be charged for usage of the service concerned, estimated by the chief financial officer based on the estimated average usage of such service, to be determined as stated in Clause 21(b), as well as for the cost of the repair or replacement of the service.

### **35. Conflicting laws**

- (1) This by-law recall any proceeding credit control and debt collection by-law promulgated.
- (2) When interpreting a provision of these by-laws, any reasonable interpretation which is consistent with the purposes of the Act as set out in Chapter 9, on customer care, credit control and debt collection shall be preferred over any alternative interpretation that is inconsistent with the purposes contained in the Act.
- (3) If there is any conflict between the provisions of these by-laws and any other by-laws of the Municipality, the provisions of these by-laws shall prevail.

### **36. Short Title**

These by-laws are called the ***Customer Care, Credit Control and Debt Collection By-laws: City of Matlosana***

### **37. Operational Date**

These by-laws will only become effective on the date of Promulgation in the Provincial Gazette, which will be in the first week of July 2009.

## **CITY OF MATLOSANA** **Draft Tariff By-Law**

The Municipal Manager of the City Council of Matlosana hereby in terms of Section 74 and 75 of the Local Government: Municipal Systems Act 32 of 2000 publishes the Tariff By-laws of the City Council of Matlosana, as set out hereunder.

### **1 PREAMBLE**

- (1) Section 229(1) of the Constitution authorizes a municipality to impose:
  - (a) rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
  - (b) if authorized by national legislation, other taxes, levies and duties.
- (2) In terms of section 75A of the Systems Act a municipality may:
  - (a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
  - (b) recover collection charges and interest on any outstanding amount.
- (3) 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 and which complies with the provisions of the Systems act, the Local Government: Municipal finance Management Act, 53 of 2003 and any other applicable legislation.
- (4) 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.
- (5) In terms of section 75(2) of the Systems 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.

### **2 INTERPRETATION**

“**City**” means City of Matlosana;

“**City’s tariff policy**” means a tariff policy adopted by the City in terms of this By-law;

“**Constitution**” means the Constitution of the Republic of South Africa;

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

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

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

### **3 ADOPTION AND IMPLEMENTATION OF TARIFF POLICY**

- (1) The City shall 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.
- (2) The City shall not be entitled to impose tariffs other than in terms of a valid tariff policy.

### **4 CONTENTS OF TARIFF POLICY**

The City’s tariff policy shall, *inter alia*:

- (1) apply to all tariffs imposed by the City pursuant to the adoption of the City’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 City may wish to adopt;
- (3) specify the manner in which the principles referred to in section 4(2) 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 City 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 City’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 City’s tariff policy.

**6 OPERATIONAL DATE**

This By-law will only become effective on the date of Promulgation in the Provincial Gazette, which will be in the first week of July 2009.

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