Johannesburg, South Africa

Tariff Determination By-law, 2008

Legislation as at 21 August 2008

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PDF created on 6 September 2026 at 11:38.

Collection last checked for updates: 4 September 2026.

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Johannesburg
South Africa

Tariff Determination By-law, 2008

Published in Gauteng Provincial Gazette 228 on 21 August 2008

Commenced on 21 August 2008

[This is the version of this document from 21 August 2008 and includes any amendments published up to 4 September 2026.]

The Municipal Manager of the City of Johannesburg Metropolitan Municipality hereby in terms is section 13(a) Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), publishes Tariff Determination By-laws for the of the City of Johannesburg Metropolitan Municipality as approved by its Council, as set out hereunder.

1. Preamble

(1) Section 229(1) of the Constitution authorizes a municipality to impose:

(a) rates in 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 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 bylaws 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, debtor, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.

2. Interpretation

In these By-Laws, the English test prevails in the event of any conflict with the Afrikaans or lsi-Zulu, SeSotho, SePedi texts, and unless the context otherwise indicates -

"**By-laws**" means the tariff By-laws as may be amended from time to time

"**City**" means the City of Johannesburg;

"**City's tariff policy**" means the Tariff Determination Policy for Trading and Minor Services for the City of Johannesburg as may be amended by Council from time to time;

"**Constitution**" means the Constitution of the Republic of South Africa;

"**Consumer**" means -

(a) any person who occupies premises to whom, and in respect of which, the Council-

(i) has agreed to provide municipal services

(ii) is actually providing municipal services

(iii) has entered into an agreement with the council for the provision of municipal services to or any premises;

(b) the owner of any premises to which the Council is providing a municipal service

"**Council**" means the City of Johannesburg Metropolitan Municipal Council;

"**Credit Control and Debt Collection By-Laws and Policy**" means the City's Credit Control and Debt Collection By-Law and Policy as required by sections 96(b), 97 and 98 of the Systems Act;

"**Determine**" means determined by the Council by resolution from time to time, the amendment of tariffs by the Council shall have the same meaning;

"**Premises**" means any piece of land, with or without any building or structure theron, the external surface boundries of which are delineated on -

(a) a general plan or diagram registered in terms of the Land Survey Act, 9 of 1927, or in terms of the Deed Registry Act, 47 of 1937; or

(b) a sectional title plan registered in terms of the Sectional Titles Act, 95 of 1986,

which is situated within the area of jurisdiction of the Council;

"**Municipal service**" means a service that the City in terms of its powers and functions provides or may provide to or for the benefit of the local community;

"**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 if 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) These By-laws are adopted in terms of section 75 of the Systems Act to give effect to the implementation of the City's Tariff Policy, a copy of which is available from the City's website.

4. Application of the bylaws

(1) These By-laws shall apply in respect of tariffs determined or amended by the Council relating to the provision of municipal services, irrespective whether such services are rendered by the Council itself or by a service provider in terms of a service delivery agreement with Council as provided fro in the Act or any other law;

(2) These By-laws shall be applied and be read with any other applicable law.

5. Liability for tariffs

(1) Every consumer of municipal services shall be liable for the tariffs as determined by Council from time to time.

6. Guiding principles for the determination of tariffs

(1) In the determination of tariffs the Council shall be guided by the following principles:

(a) Tariffs shall be equitable and affordable in that the amount individual users pay for a municipal service should generally be in proportion to their use of that service;

(b) Tariffs shall provide access to basic municipal services for everyone, including poor households;

(c) Tariffs shall ensure the ability to extend municipal services to all consumers;

(d) Tariffs shall where necessary provide for cross subsidization of the poor to enable the poor access to basic municipal services

(e) Tariffs shall encourage the relative competitiveness of the Council in line with strategies adopted by the Council;

(f) Tariffs shall be used as a tool to influence positively the micro-economic input costs facing businesses;

(g) Tariffs shall be used as a tool to promote local economic development;

(h) Tariffs shall support national macro-economic policies and shall incorporate visions, strategies and economic policies of the Republic of South Africa

(i) Tariffs shall be cost effective and cost reflective and should reflect the cost reasonably associated with rendering municipal services, including capital, operating, maintenance, administration, replacement costs and interest charges;

(j) Tariffs shall ensure that all costs of providing municipal services are recovered through the tariff;

(k) Tariffs shall promote the sustainability of the provision of municipal services;

(l) Tariffs shall be transparent, and the extent of subsidization and cross functional subsidization of tariffs for poor households and such other categories as may from time to time be determined by Council shall be fully disclosed;

7. Differentiation between different categories of consumers

(1) Section 74(3) of the Municipal Systems Act allows for the differentiation between different categories of users, debtors, service providers, services, service standards, geographical areas and other matters for tariff purposes as long as the differentiation does not amount to unfair discrimination;

(2) When determining the tariffs and making the differentiation for tariff purposes, the Council may allow for the following categorization -

A. Categories of users

(i) Residential or Domestic;

(ii) Commercial;

(iii) Industrial;

(iv) Farming;

(v) Government; and

(vi) State owned enterprises.

The sub-categories of residential or domestic users may be defined based on anyone or more of the following criteria:

(i) Settlement type (which must include informal settlements and Homeless people Shelters);

(ii) Property value;

(iii) Service consumption level;

(iv) Payment levels;

(v) Household income; and

(vi) Type of connection.

B. Categories of service

(i) Type of service;

(ii) Category of user;

(iii) Level of consumption;

(iv) Type of connection; and

(v) Time of use.

C. Categories of standard of service

Different categories of standard of service may be defined for different categories of users or services. They may be based on:

(i) Access; and

(ii) Frequency

D. Categories of Geographical Area

Differentiation based on geographic area may be used if the service provided is at least the basic service and one of the following criteria is met:

(i) Topography must have significant impact on the cost of delivering the service;

(ii) Significant capital costs are needed to develop service infrastructure in the area; and

(ii) The Integrated Development Plan identifies the area as having strategic developmental importance.

(3) The differentiation for tariff purposes shall be done during the tariff determination process.

8. Queries or complaints in respect of categorisation

(1) A consumer may lodge a query or complaint in respect any categorization in terms of these By-laws

(2) A query or complaint must be lodged with the Council within 30 days of determination and categorization by Council;

(3) An authorized official must register the query or complaint and provide the consumer with a reference number;

(4) The Council must -

(a) investigate or cause the query or complaint to be investigated within 14 days, or as soon as possible after query or complaint was received; and inform

(b) inform the consumer, in writing, of its decision as soon as possible after the conclusion of the investigation.

(5) A consumer may lodge an appeal with the City Manager in terms of Section 62 of the Systems Act against a decision referred to in subsection (4)(b), within 21 days of the date of notification of the decision.

(6) The City Manager must inform the consumer concerned in writing of the decision on the appeal.

9. Enforcement of tariff policy

The collection of tariffs for municipal services shall be enforced through the Credit Control and Debt Collection By-Laws and any further legal enforcement mechanisms.

10. Operative date

These By-Laws shall take effect on the date of promulgation.

11. Short Title

These By-laws are called the City of Johannesburg's Tariff Determination By-laws, 2008