

EMTHANJENI MUNICIPALITY

RATES POLICY

**FORMULATED IN TERMS OF SECTION 3 OF THE LOCAL
GOVERNMENT: MUNICIPAL PROPERTY RATES ACT,
NO. 6 OF 2004**

TABLE OF CONTENTS

| | | |
|-----|--------------------------------------|----|
| 1. | LEGISLATIVE CONTEXT | 2 |
| 2. | DEFINITIONS | 2 |
| 3. | POLICY PRINCIPLES | 4 |
| 4. | SCOPE OF THE POLICY | 5 |
| 5. | APPLICATION OF THE POLICY | 5 |
| 6. | CATEGORIES OF PROPERTY | 5 |
| 7. | CATEGORIES OF OWNERS | 6 |
| 8. | PROPERTIES USED FOR MULTIPLE PURPOSE | 6 |
| 9. | DIFFERENTIAL RATING | 7 |
| 10. | EXEMPTIONS | 7 |
| 11. | REDUCTIONS | 9 |
| 12. | REBATES | 10 |
| 13. | RATES INCREASES | 14 |
| 14. | NOTIFICATION OF RATES | 15 |
| 15. | PAYMENT OF RATES | 15 |
| 16. | REGULAR REVIEW PROCESS | 16 |
| 17. | SHORT TITLE | 16 |
| 18. | ENFORCEMENT/IMPLEMENTATION | 16 |

RATES POLICY

1. LEGISLATIVE CONTEXT

- 1.1 This policy is mandated by Section 3 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004), which specifically provides that a municipality must adopt a Rates Policy.
- 1.2 In terms of Section 229 of the Constitution of the Republic of South Africa, 1996 (No.108 of 1996), a municipality may impose rates on property.
- 1.3 In terms of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) a municipality in accordance with-
- a. Section 2(1), may levy a rate on property in its area; and
 - b. Section 2(3), must exercise its power to levy a rate on property subject to-
 - i. Section 229 and any other applicable provisions of the Constitution;
 - ii. the provisions of the Property Rates Act;
 - iii. Municipal Property Rates Regulations on the Ratio between the Residential and Non-residential Properties (Gazette no. 32061 and 32062 issued on 27 March 2009)
 - iv. the Rates Policy of the municipality.
- 1.4 In terms of Section 4 (1) (c) of the Local Government: Municipal Systems Act, 2000 (No. 32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing, *inter alia*, rates on property.
- 1.5 In terms of Section 62(1) (f) (ii) of the Local Government: Municipal Finance Management Act, 2003 (No. 56 of 2003) the municipal manager must ensure that the municipality has and implements a Rates Policy.

2. DEFINITIONS

- 2.1 **Act** means the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004).
- 2.2 **Municipality** means the municipal council for the municipal area of Emthanjeni Municipality
- 2.3 **All other terms** are used within the context of the definitions contained in the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) —means

Emthanjeni Municipality Rates Policy (Final 2013/2014 Financial Year)

- (a) In relation to a property referred to in paragraph (a) of the definition of “property”, means 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”, means 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”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means 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 this Act be regarded by a municipality as the owner of a property in the following cases:
 - (i) A trustee, in the case of a property in a trust excluding state trust land;
 - (ii) An executor or administrator, in the case of a property in a deceased estate;
 - (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
 - (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
 - (v) a curator, in the case of a property in the estate of a person under curator ship;
 - (vi) 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;
 - (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or

- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;
 - (e) in relation to agriculture property/agricultural use means a farm or a small holding used for the production of goods or products through farming or forestry activities. (see paragraph 12(1) b)
 - (f) The rates category of a property will be determined by the dominant use of the property
- 2.4 In relation to a property, sub economic, old housing scheme, RDP housing referred to the definition of “property”, **means a person in whose name ownership of the property is still unregistered but occupies the property. Registration of these properties are not yet registered due to delays at the Deeds Office and processes within the municipality**
- 2.5 Indigent household: a household which qualifies as indigent as defined in the Indigent Policy of the Municipality
- 2.6 Income: Money received as income
- 2.7 Municipal Financial Year: as determined by the MFMA from 1 July – 30 June the following year.

3. POLICY PRINCIPLES

- 3.1 Rates are levied in accordance with the Act as an amount in the rand based on the market value of all rateable property contained in the municipality’s general valuation roll and supplementary valuation roll.
- 3.2 As allowed for in the Act, the Municipality has chosen to differentiate between various categories of property and categories of owners of property. Some categories of property and categories of owners are granted relief from rates. The municipality however does not grant relief in respect of payments for rates to any category of owners or properties, or to owners of properties on an individual basis, other than by way of an exemption, rebate or reduction provided for in this policy.
- 3.3 There will be no phasing in of rates based on the new valuation roll, except as prescribed by legislation, the Property Rates Act and the Rates Policy of the Municipality

3.4 The Rates Policy of the Municipality is based on the following principles:

- (a) Equity
The municipality will treat all ratepayers of a category of property or category of owner the same.
- (b) Affordability
The ability of a person to pay rates will be taken into account by the Municipality. In dealing with the poor/indigent ratepayers the Municipality will provide relief measures through exemptions, reductions or rebates.
- (c) Sustainability
Rating of property will be implemented in a way that:
 - i. it supports sustainable local government by providing a stable and buoyant revenue source within the discretionary control of the Municipality; and
 - ii. it supports local social and economic development
- (d) Cost efficiency
Rates will be based on the value of all rateable property and the amount required by the Municipality to balance the operating budget after taking into account profits generated on trading (water, electricity) and economic (refuse removal, sewerage removal) services and the amounts required to finance exemptions, rebates, reductions and phasing-in of rates as approved by the Municipality from time to time.

3.5 The rates category of a property will be determined by the dominant use of the property

4. SCOPE OF THE POLICY

This policy document guides the annual setting (or revision) of property rates. It does not make specific property rates proposals. Details pertaining to the applications of the various property rates are published in the *local newspaper* and the municipality's schedule of tariffs, which must be read in conjunction with this policy.

5. APPLICATION OF THE POLICY

In imposing the rate in the rand for each annual operating budget component, the Municipality shall grant exemptions, rebates and

reductions to the categories of properties and categories of owners as allowed for in this policy document.

6. CATEGORIES OF PROPERTY

6.1 Criteria for determining categories of properties for the purpose of levying different rates and for the purpose of granting exemptions will be according to the-

- (a) The rates category of a property will be determined by the dominant use of the property
- (b) permitted use of the property or
- (c) geographical area in which the property is situated

6.2 Categories of property for the municipality include-

- (a) residential properties;
- (b) business and commercial properties;
- (c) industrial properties;
- (d) public service infrastructure;
- (e) public benefit organisations;
- (f) agricultural properties;
- (g) state-owned properties;
- (h) municipal properties;
- (i) multiple use properties;
- (j) vacant land.
- (k) mining properties
- (l) places of worship

7. CATEGORIES OF OWNERS APPLYING FOR EXEMPTIONS, REDUCTIONS AND REBATES

Criteria for determining categories of owners of properties, for the purpose of granting exemptions, rebates and reductions will be according to the-

- (a) indigent owners who qualify as indigent households as defined in the Indigent Policy of Emthanjeni Municipality.
- (b) income derived from the use of the property
- (c) owners of property situated within an area affected by-
 - i a disaster within the meaning of the Disaster Management

Act, 2002 (Act No. 56 of 2002); or
ii. any other serious adverse social or economic conditions

- (d) owners of residential properties with a market value below a determined threshold; or
- (e) owners of agricultural properties
- (f) retired and disabled owners of property

8. PROPERTIES USED FOR MULTIPLE PURPOSES

Rates on properties used for multiple purposes will be levied on properties used for-

- (a) a purpose corresponding with the permitted use of the property, if the permitted use of the property is regulated;
- (b) a purpose corresponding with the dominant use of the property;
- (c) applying the relevant cent amount in the rand to the corresponding apportioned market value.

9. DIFFERENTIAL RATING

9.1 Criteria for differential rating on different categories of properties will be according to-

- (a) The nature of the property including its sensitivity to rating e.g. agricultural properties used for agricultural purposes.
- (b) The promotion of social and economic development of the municipality.

9.2 Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category and/or

9.3 by way of reductions and rebates.

10. EXEMPTIONS

10.1 The following categories of property are exempted from rates:

- (a) Municipal properties
 - (i) Municipal properties are exempted from paying rates as it will increase the rates burden or service charges to property owners or consumers.

(ii) **Except for those properties as mentioned in paragraph 2.4 that states In relation to a property, sub economic, old housing scheme, RDP housing referred to the definition of “property”, means a person in whose name ownership of the property is still unregistered but occupies the property. Registration if these properties are not yet registered due to delays at the Deeds Office and processes within the municipality**

(b) Residential properties

All owners of residential property are exempted from paying rates on the first **R28 000-00 of the value of a particular property of which he or she is the owner**

(c) Religious Institutions

Only registered Religious Organisations will be exempted from paying rates.

(d) Public Benefit Organisations

The following Public Benefit Organisations may apply for the exemption of property rates subject to producing a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (No 58 of 1962):

(e) Welfare institutions

Properties used exclusively as an orphanage, non-profit retirement villages, old age home or benevolent institution, including workshops used by the inmates, laundry or cafeteria facilities, provided that any profits from the use of the property are used entirely for the benefit of the institution and/or to charitable purposes within the municipality subject to producing a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (No 58 of 1962).

(f) Charitable institutions

Property belonging to not-for-gain institutions or organisations that perform charitable work may apply for the exemption of property rates subject to producing a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (No 58 of 1962):

(g) Cultural institutions

Properties declared in terms of the Cultural Institutions Act, Act 29 of 1969 or the Cultural Institutions Act, Act 66 of 1989.

(h) Museums, libraries, art galleries

Registered in the name of private persons, open to the public and not operated for gain.

(i) Youth development organisations

Property owned and/or used by organisations for the provision of youth leadership or development programmes.

(j) Animal welfare

Property owned or used by institutions/organisations whose exclusive aim is to protect birds, reptiles and animals on a not-for-gain basis.

10.2 The categories of property in (a) to (c) below are exempt from paying rates on the first 30 % of the market value

(a) Public Service Infrastructure

Means publicly controlled infrastructure as per definition of MPRA, 6 of 2004.

(b) Sporting bodies

Property used by an organisation whose sole purpose is to use the property for sporting purposes on a non-professional basis.

10.3 Exemptions shall be subject to the following conditions:

- (a) all applications must be addressed in writing to the Municipality;
- (b) a SARS tax exemption certificate must be attached to all applications;
- (c) the Municipal Manager or Chief Financial Officer must approve all applications;
- (d) applications must reach the Municipality before the end of August or alternatively any other date determined by Council preceding the start of the new municipal financial year for which relief is sought; and**
- (e) the Municipality retains the right to refuse exemptions if the details supplied in the application form are incomplete, incorrect or false.

11. REDUCTIONS

11.1 A reduction in the municipal valuation as contemplated in section 15(1) (2) of the Act will be granted where the value of a property is affected by-

- (a) a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 56 of 2002); or
- (b) any other serious, adverse social or economic conditions.

11.2 The reduction will be in relation to the certificate issued for this purpose by the municipal valuer

11.3 All categories of owners can apply for a reduction in the rates payable as described above

12. REBATES

12.1. Categories of property

(a) Business, commercial and industrial properties

- i. The municipality may grant rebates to rateable enterprises that promote local, social and economic development in its area of jurisdiction, based on its Local, Social and Economic Development Policy. The following criteria will apply:
 - a. job creation in the municipal area;
 - b. social upliftment of the local community; and
 - c. creation of infrastructure for the benefit of the community.

- ii. Rebates will be granted on application subject to:
 - a. a business plan issued by the directors of the company indicating how the local, social and economic development objectives of the municipality are going to be met;
 - b. a continuation plan issued by the directors and certified by auditors of the company stating that the objectives have been met in the first year after establishment and how the company plan to continue to meet the objectives;
 - c. an assessment by the Municipal Manager or his/her nominee indicating that the company qualifies; and
 - d. a municipal resolution.

(b). Agricultural property/ Agricultural Use

- (i) A farm is an area of land, including various structures thereon, devoted primarily to the practice of producing and managing food (produce, grains or livestock) or forestry products. The farming activity must be intense, must not be a mere hobby and must contribute to the local economy.
- (ii) may be owned and operated by a single individual, family, community or corporate entity. In the event that the farmer is an individual, the farmer must be dependent on the income from the farm to support his or her family. A farm can be a holding of any size.
- (iii) In terms of the MPRA, the definition of agricultural purposes excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game and will therefore be exempted from any rates rebate.

- (iv) As a result of, and taking into account, limited rate-funded services supplied to such properties in general, the contribution of agriculture to the local economy, the extent to which agriculture assists in meeting the service delivery and development obligations of the municipality, and the contribution of agriculture to the social and economic welfare of farm workers, the Municipality grants a additional rates rebate (as set out below) in respect of properties used for agricultural purposes only, of **48%** after to the current property rates levy ratio of (1:0.25) is applied, which is the applicable rate for properties used for agricultural purposes, but does not exceed the maximum ratio of the rate on residential property prescribed in the MPRA Rate Ratio Regulations.
- (v) Unless the usage of a property has changed, owners of qualifying agricultural properties must apply for the rebate in the year when a new General Valuation Roll ("GV") or Supplementary Valuation Roll ("SV") or change of ownership, as the case may be, which affects the property, is implemented.
- (vi) Rebates for the extent of municipal services not provided to agricultural property form part of the **48% rebate as mentioned in section 12(1)(b)(ii)(iv)** and no additional rebates will be granted in respect of the following:
- a) No municipal roads adjacent to the property.
 - b) No municipal sewerage to the property.
 - c) No municipal electricity to the property.
 - d) Gravel access roads not provided or maintained by the municipality
 - e) No refuse removal provided by the municipality.
 - f) Provision of permanent residence to farm workers.
 - g) Provision of potable water farm workers .
 - h) Provision of electricity to houses of farm workers.
- (vii) Rebates will be granted on application, subject to the following:
1. A bona fide farmer must submit certified copies of the following documents in order to qualify for the additional rebate of 48% as mentioned in clause b(iv)

Emthanjeni Municipality Rates Policy (Final 2013/2014 Financial Year)

- (i) Official Emthanjeni Municipality's Rates Rebate application form.
 - (ii) An affidavit of the predominant use of the property
 - (iii) Affidavit that the total revenue of eco-tourism and game farming constitute not more than 8% of the total farming revenue on the farm. The primary use of the property must be clearly outlined.
 - (iv) Proof of postal address must also be provided. Omission of proof of postal address will lead to automatic disqualification of application.
 - (v) Portions of farms must be clearly indicated when applying for rebates.
 - (vi) An individual or consolidated application in writing together with the documentation as required must be made for each property or portion of property.
2. Completed applications must reach the Directorate of Finance: Rates Section on or before the 31 August 2013.
3. Emthanjeni Municipality's application form must be used and Incomplete applications will not be considered and the onus is placed on the owner to provide all supporting documentation before any application will be considered.
4. Applications received after 31 August 2013 will be disqualified for the current financial year and will only be processed in the next financial year.
5. The current rebates are applicable as from the 2013/2014 financial year.
6. Investigation
 - (i) The Municipality reserves the right to verify the details provided in the application

- (ii) The Municipality will undertake an on going inspection of the applicant farming property and any changes in that farming property's circumstances must be reported.
 - (iii) Applicant must attest to the above before a Commissioner of Oaths and a representative of a civil society structure must attest to the veracity of the application.
- 7 The rebates application may apply for the period during which the current valuation roll, of 01 July 2012 to 30 June 2016, is effective.

NB: No other rebates will be granted to properties that qualify for the agricultural rebates. The additional rebate of 48% as mentioned in clause 12(b)(iv) above includes all rebates for the provision of municipal basic services as outlined in clause 12(b) above. For example, if the rate for residential properties is one (1) cent ,farming properties will be levied at a quarter of a cent (0.25 or ¼ cent) and will receive an additional 48 % rebate on the quarter of a cent (0.25 or ¼ cent) upon submission of a valid and complete rebate application.

Further rebates would be unfair to the residential property owners who receive an exemption only on the first R28 000 of valuation. Emthanjeni Municipality does not include the refuse, sewerage, sanitation and availability levy in the property rates levy. Property rates are levied separately.

7. Phasing-in Discount

Rates levied on all properties previously not levied and agricultural property shall be phased in over a period of three years as follows:

- (i) First Year of implementation: Discount of 75% of the total rates for that year, otherwise applicable to the property
- (ii) Second Year of implementation: Discount of 50% of the total rates for that year, otherwise applicable to the property

(iii) Third Year of implementation: Discount of 25% of the total rates for that year, otherwise applicable to the property

(c) Conservation Land

No rebates are granted to privately owned properties whether designated or used for conservation purposes.

(d) Historical or heritage properties

No rebates are granted other than residential rebates, if appropriate.

(e) Non-profit or public benefit organisations

The categories of non-profit organisation or public benefit organisations listed in 10.1 above may be granted an 80% rates rebate if they do not apply or qualify for exemption in terms of 10(d).

These categories of properties and/or owners of properties are deemed to contribute services or benefits to the community.

An annual rebate will only be granted if an organisation, owner or user of the property is registered as non-profit or public benefit organisation with the municipality before the end of September. Organisations, owners or such users who fail to register before the end of September will not be entitled to the rebate for that financial year.

12.3 Categories of owners

(a) Retired and Disabled Persons Rate Rebate will receive an additional 40 % discount

i. Retired and Disabled Persons qualify for special rebates according to monthly household income. To qualify for the rebate a property owner must:

a. occupies the property as his/her normal residence;

Emthanjeni Municipality Rates Policy (Final 2013/2014 Financial Year)

- b. be at least 65 years of age or in receipt of a disability pension from the Department of Welfare and Population Development;
 - c. be in receipt of a total monthly gross income from all sources (including income of spouse of owner) not exceeding **R4 500**; or an amount to be determined by Council
 - d. not be the owner of more than one property; and
 - e. provided that where the owner is unable to occupy the property due to no fault of his/her own, the spouse or minor children may satisfy the occupancy requirement.
- ii. Property owners must apply on a prescribed application form for a rebate as determined by the Municipality.
- iii. Applications must be accompanied by-
 - a. a certified copy of the identity document or any other proof of the owners age which is acceptable to the municipality;
 - b. sufficient proof of income of the owner and his/her spouse;
 - c. an affidavit from the owner;
 - d. if the owner is a disabled person proof of a disability pension payable by the state must be supplied; and
 - e. if the owner has retired at an earlier stage for medical reasons proof thereof must be submitted.
 - f. See also section 10(3)
- iv. These applications must reach the Municipality on or before 31 August 2013 of the 2013/2014 municipal financial year for which relief is sought or alternatively any other date determined by Council preceding the start of the new municipal financial year for which relief is sought
- v. The Municipality retains the right to refuse rebates if the details supplied in the application form were incomplete, incorrect or false.

- 12.4 Properties with a market value below a prescribed valuation level, instead of a rate determined on the market value of these properties a uniform amount may be fixed per property.

13. RATES INCREASES

- (a) The Municipality will consider increasing rates annually during the budget process in terms of the guidelines issued by National Treasury from time to time.

1. Rate increases will be used to finance the increase in operating costs of community and subsidised services.
2. Relating to community and subsidised services the following annual adjustments will be made:
 - i. All salary and wage increases as agreed at the South African Local Government Bargaining Council
 - ii. An inflation adjustment for general expenditure, repairs and maintenance and contributions to statutory funds, and
 - iii. Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.

- (b) Extraordinary expenditure related to community services not foreseen during the previous budget period and approved by the council during a budget review process will be financed by an increase in property rates.

- (c) Affordability of rates to ratepayers.

- (d) All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.

14. NOTIFICATION OF RATES

- (a) The Municipality will give notice of all rates approved at the annual budget meeting at least 30 days prior to the date that the rates become effective. Accounts delivered after the 30 days notice will be based on the new rates.

- (b) A notice stating the purport of the Municipality's resolution and the date on which the new rates become operational will be displayed by the Municipality at places installed for that purpose.

15. PAYMENT OF RATES

- 15.1 Ratepayers may choose between paying rates annually in one instalment on or before 30 September or in twelve equal instalments on or before the seventh day of the month following on the month in which it becomes payable.
- 15.2 If the owner of property that is subject to rates, notifies the Municipal Manager or his/her nominee not later than 31 May in any financial year, or such later date in such financial year as may be determined by the Municipal Manager or his/her nominee that he/she wishes to pay all rates in respect of such property in instalments, such owner shall be entitled to pay all rates in the subsequent financial year and each subsequent financial year in twelve instalments until such notice is withdrawn by him/her in a similar manner.
- 15.3 Interest on arrears rates, whether payable on or before 30 September or in equal monthly instalments, shall be calculated in accordance with the provisions of the credit control, debt collection and indigent policy of the municipality.
- 15.4 If a property owner, who is responsible for the payment of property rates in terms of this policy, fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Credit Control, Debt Collection and Indigent Policy of the Municipality.
- 15.5 Arrears rates shall be recovered from tenants, occupiers and agents of the owner, in terms of *the Credit Control Policy of Emthanjeni Municipality*.
- 15.6 Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.
- 15.7 In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

16. REGULAR REVIEW PROCESS

The rates policy will be reviewed on an annual basis to ensure that it complies with the Municipality's strategic objectives and with legislation.

17. SHORT TITLE

This policy is the Property Rates Policy of Emthanjeni Municipality.

18. ENFORCEMENT/IMPLEMENTATION

This policy has been approved by the Council of Emthanjeni Municipality in terms of resolutiondated _____ and comes into effect from 1 July **2013**.