

# EMTHANJENI MUNICIPALITY



## FINAL MUNICIPAL PROPERTY RATES POLICY

2016/2017 MTREF

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**ABBREVIATIONS**

NC073	<i>Emthanjeni Municipality</i>
AO	Accounting Officer
CFO	Chief Financial Officer
EM	Executive Mayor
IBT	Inclining Block Tariff
MFMA	Municipal Finance Management Act
MPRA	Municipal Property Rates Act and MPRA Amendments Act
MSA	Municipal Systems Act
NCA	National Credit Act
SAPOA	South African Property Owners Association
SARS	South African Revenue Services
VAT	Value Added Tax

## **1. PURPOSE OF THIS DOCUMENT**

This purpose of this Policy is to set out the guiding principles and legislative requirements that governs the compilation and management of the municipal Valuation Roll. This policy should at all times be read together with the Municipal Property Rates Act, 2004 AND the Municipal Property Rates Amendments Act, 2015.

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## 2. DEFINITIONS

In this policy, definitions, words and expressions have the same meanings as assigned to them in the Act, unless the context indicates otherwise: –

**“accommodation”** means accommodation in an accommodation establishment, a room, dwelling/ house or second dwelling unit, self-catering room, self-catering apartment or free standing building let to transient guests consisting of three or more lettable units;

**“accommodation establishments”** – consists of one or more of the following lettable types of accommodation, consisting of three or more lettable units –

- (a) “Camping” (informal temporary accommodation in a unique environment) is defined by a property used for erection of tents or other temporary structures for temporary accommodation for visitors or holiday-makers, which includes ablution, cooking and other facilities that are reasonably and ordinarily related to camping , for use of such visitors, and includes a caravan park, whether publicly or privately owned, but which excludes the alienation of land on the basis of time sharing, sectional title share blocks or individual subdivision; and excludes resort accommodation or mobile homes;
- (b) “Bed and Breakfast” (accommodation in a dwelling-house or second dwelling unit for transient guests) is defined by a dwelling-house or second dwelling in which the owner of the dwelling supplies lodging and meals for compensation to transient guests who have permanent residence elsewhere; provided that the primary use of the dwelling-house concerned shall remain for the living accommodation of a single family and where not more than 3 guest rooms are provided;
- (c) “Guest House” is defined by a dwelling-house which is used for the purpose of supplying lodging and meals to transient guests for compensation, in an establishment which exceeds the restrictions of a bed and breakfast establishment and may include business meetings, training sessions and conference facilities for resident guests;(includes Self Catering units)
- (d) “Bed and Breakfasts” establishment means a dwelling house or second dwelling unit in which the occupant of the dwelling house supplies lodging and meals for remuneration to transient guests who have permanent residence elsewhere
- (e) “Self catering Accommodation” (accommodation for non-permanent residents and transient guests) is defined by a house, cottage, chalet, bungalow, flat, studio, apartment, villa, or similar accommodation where facilities and equipment are provided for guests to cater for themselves. The facilities should be adequate to cater for the maximum advertised number of residents the facility can accommodate;
- (f) “Self catering Apartments” (accommodation for non-permanent residents and transient guests) is defined by a building or group of buildings consisting of separate accommodation units, each incorporating a kitchen / -ette facility, and which may include other communal facilities for the use of transient guests, together with outbuildings as are normally used therewith; which are rented for residential purposes and may include holiday flats; but does not include a hotel, dwelling-house, second dwelling or group house;
- (g) “Backpackers Accommodation” (accommodation and communal facilities in a building or free standing buildings for transient guests) is defined by a building where lodging is provided, and may incorporate cooking dining and communal facilities for the use of lodgers, together with such outbuildings as are normally used therewith and includes a building in which dormitories/rooms/beds are rented for residential purposes, youth hostel, and backpackers’ lodge; but does not include a hotel, dwelling house, second dwelling or group house;
- (h) “Boarding House” a dwelling-house or second dwelling which is used for the purpose of supplying lodging with or without meals or self catering to non permanent/permanent residents for compensation; provided that the primary use of the dwelling-house shall remain for the living accommodation of a single family;

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**"Act"** – means the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004) and any amendment thereof;

**"annually"** – means once every financial year;

**"business and commercial property"** – means -

- (a) property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or
- (b) property on which the administration of the business of private or public entities take place;

**"Calendar year"** shall mean 12 consecutive months of a financial year(s);

**"category"** –

- (a) in relation to a property, means a category of properties determined in terms of section 8(2) of the Act;
- (b) in relation to the owners of property, means a category of owners determined in terms of section 15(2) of the Act;

**"conservation area"** –

- (a) a protected area as listed in section 10 of the Protected Areas Act, 2003;
- (b) a nature reserve established in accordance with the Nature and Environment Conservation Ordinance, no 19 of 1974; or
- (c) any land area zoned as open area zone III in accordance with the Municipality's zoning scheme regulations; provided that such protected areas, nature reserves or land areas, with the exception of tourism facilities that may be erected thereupon, be used exclusively for the conservation of the fauna and flora and the products of those land areas may not be traded for commercial gain;

**"exclusion"** – in relation to a Municipality's rating power, means a restriction of that power as provided for in sections 16 and 17 of the Act;

**"exemption"** - in respect of the calculation of a rate means an exemption granted in terms of section 15(1)(a) of the Act;

**"farm property or small holding used for agricultural purpose"** – means property that is used for the cultivation of soils for purposes of planting and gathering in of crops; forestry in the context of the planting or growing of trees in a managed and structured fashion; the rearing of livestock and game or the propagation and harvesting of fish, **but excludes** the use of a property for the purpose of eco-tourism; OR for the trading in hunting of game, accommodation of members of the public for gain, and in the respect of property on which game is reared, trade or hunted, **it excludes any portion that is used for commercially for the hospitality of guests, or business purposes**. In this definition such properties could also be included within the urban edge of a town;

**"farm property or small holding not used for any purpose"** – means agricultural property or an agricultural zoned land which is not used for farming purposes, regardless of whether such portion of such property has a dwelling on it which is used as a dwelling and must be regarded as residential property;

**"Renewable Solar Energy farm or property and Wind Farms"** – means agricultural land as defined in the Subdivision of Agricultural Land Act, 70 of 1970, on which energy producing solar energy panels have been erected for the purpose of generating electricity, but which are dually used for agricultural purposes as defined as defined under "agricultural use", which are dually utilise and includes all land situated in the demarcated municipal area.

**"Wind Farms"** – means agricultural land as defined in the Subdivision of Agricultural Land Act, 70 of 1970, on which energy-producing windmills or wind turbines have been erected for the purpose of generating electricity, but which are

dually used for agricultural purposes as defined as defined under "agricultural use", which are dually utilise and includes all land situated in the demarcated municipal area.

This property or an agricultural zoned land where a portion is used for generating of electricity purposes, **which is not used for farming purposes**, regardless of whether such portion of such property has renewable equipment and windmills or wind turbines on it which is used as exclusively for renewable energy generation purposes and must be regarded as renewable solar energy property and wind farms.

**"financial year"** – the period starting from 1 July in a year to 30 June the following year;

**"industrial property"** – means property used for construction, repair, trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, and includes any office or other accommodation on the same property, the use of which is incidental to such activity;

**"local community"** – in relation to the Municipality –

- (a) means that body of persons comprising –
  - (i) the residents of the Municipality;
  - (ii) the rate payers of the Municipality;
  - (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the Municipality; and
  - (iv) 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; and
- (b) includes, more specifically, the poor and other deprived sections of such body of persons;

**"local Municipality"** – a Municipality that shares municipal executive and legislative authority in its area with a district Municipality within whose area it falls and which is described in section 155(1) of the Constitution as a category B Municipality;

**"market value"** – in relation to a property, means the value of the property determined in accordance with section 46 of the Act;

**"multiple purposes"** – in relation to a property, means the use of a property for more than one purpose as intended in section 9 of the Act;

**"municipal council"** or **"council"** – is a municipal council referred to in section 18 of the Municipal Structures Act, 1998 (Act No 117 of 1998);

**"municipal manager"** – means a person appointed in terms of section 82 of the Municipal Structures Act, 1998 (Act No 117 of 1998);

**"municipal property"** – is property registered or established in the name of the Example Municipality;

**"Municipality"** –

- (a) as a corporate entity means a Municipality as described in section 2 of the Municipal Systems Act, 2000 (Act No 32 of 2000); and
- (b) as a geographical area, means a municipal area demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998);



**"occupier"** – in respect of a property means a person in actual occupation of a property, whether or not that person has a right to occupy the property;

**"open space"** - means land that is used as a park, garden, for passive leisure or maintained in its natural state and that is zoned as open space;

**"owner"-**

- (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 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 in the Act of the term "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 (the applicant must produce a letter from the Master of the Court or appropriate legal proof to substantiate the appointment);
  - (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 curatorship;
  - (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 (the applicant must produce a letter from the Master of the Court or appropriate legal proof to substantiate the appointment);
  - (vii) a lessee, in the case of a property that is registered in the name of a Municipality and is leased by it;
  - (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;

**"permitted use"** – in respect of a property means the limited purposes for which a property may be used in terms of the following –

- (a) any restrictions imposed by –
  - (i) a condition of title; or
  - (ii) a provision of a town planning or land use scheme; or
  - (iii) any legislation applicable to any specific property or properties; or
- (b) any alleviation of any such restrictions;

**"private open space"** means land that is privately owned and used for practising of sport, play- or leisure facilities or used as a botanical garden, cemetery or nature area and which is joined as Private Open Space;

**"privately owned townships serviced by the owner"** – means single properties (group housing or single residential erven), situated in an area not ordinarily being serviced by the Municipality, divided through subdivision or township establishment in (ten or more) full-title stands and/or sectional title units and where all rates-related services inclusive of installation and maintenance of streets, roads, sidewalks, lighting, storm water drainage facilities, parks and recreation facilities, are installed at the full cost of the developer and are rendered and maintained by the residents, Home owners association or management companies/ bodies of such estate;

**"property"** – means

- (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public services infrastructure;

**"property register"** – a register of properties referred to in section 23 of the Act;

**"public benefits organisation"** means an organisation conducting specified public benefit activities as defined in the act and registered in terms of the Income Tax Act for tax reductions because of its activities.

**"rate"** – a municipal rate on a property envisaged in section 229(1)(a) of the Constitution;

**"rateable property"** – means property on which a Municipality may in terms of section 2 of the Act levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act;

**"rebate"** – in relation to a rate payable on a property, means a discount granted in terms of section 15 of the Act on the amount of the rate payable on the property;

**"reduction"** – in respect of a rate payable on a property, means the lowering of the amount for which the property was valued and the rating of that property at that lower amount;

**"residential property"** – means improved property that:-

- (a) is used predominantly (60% or more) for residential purposes, including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes, if still used dominantly for residential purposes;
- (b) is a unit registered in terms of the Sectional Title Act and is used predominantly for residential purposes;
- (c) is owned by a share-block company and is used predominantly for residential purposes;
- (d) is a residence used for residential purposes situated on a property used for educational purposes;
- (e) is property which is included as residential in a valuation list in terms of section 48(2)(b) of the Act;
- (f) are retirement schemes and life right schemes used predominantly (60% or more) for residential purposes;

vacant properties (empty stands), hotels, hostels, old-age homes and accommodation establishments, irrespective of their zoning or intended use, have been specifically excluded from this property category;

**"small holding"** – means

- (a) all agricultural zoned land units situated within an urban region with an area of one to three hectares; or
- (b) any agricultural zoned land unit situated outside an urban region with an area of three hectares or less;

**"public service infrastructure"** – section 13 of the Amendment Act amends section 17(1) which prohibits the rating of these category of property;

**“public services purposes”** – property used by an organ of state for rendering of a service directly to the public such as Health, education, police stations, court of law **but** exclude property contemplated in the definition of **“Public Service Infrastructure”**

**“state owned property”** – excludes any property included in the valuation roll under the category ‘residential property’ or ‘vacant land’;

**“vacant property”** – means any land without any improvements thereon.

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### **3. OBJECTIVES OF THE POLICY**

The objectives of this policy are: –

- 3.1 to comply with the provisions of section 3 of the Act;
- 3.2 to determine criteria to be applied for –
  - 3.2.1 levying differential rates for different property categories;
  - 3.2.2 exemptions;
  - 3.2.3 reductions;
  - 3.2.4 rebates; and
  - 3.2.5 rate increases.
- 3.3 to determine or provide criteria for the determination of the following –
  - 3.3.1 property categories for the purpose of levying different rates; and
  - 3.3.2 categories of owners of properties for the purpose of granting exemptions, rebates and reductions;
- 3.4 to determine how the Municipality's power should be exercised in terms of multiple-used properties;
- 3.5 to identify and quantify the following for the Municipality in terms of costs and the benefit for the community
  - 3.5.1 exemptions, rebates and reductions; and
  - 3.5.2 exclusions.
- 3.6 to take into account the effect of rates on the indigent;
- 3.7 to take into account the effect of rates on organisations that perform activities for public benefit;
- 3.8 to take into account the effect of rates on the public services infrastructure;
- 3.9 to determine measures for promoting local economic and social development; and
- 3.10 to identify all rateable revenue not being rated.

#### 4. CONSTITUTIONAL AND LEGAL FRAMEWORK

The Municipal Property Rates Act, 2004 forms the legal basis of this policy. However, the following additional legal references were observed during the compilation of this policy:-

- Municipal Finance Management Act, 2003;
- Municipal Systems Act, 2000;
- Municipal Property Rates Policy, as reviewed annually; and
- Constitution of the Republic of South Africa, 1996 as amended.

#### 5. APPROVAL AND EFFECTIVE DATE

The Chief Financial Officer (CFO) is responsible for the submission of the Policy to Council to consider its adoption after consultation with the AO. Council shall indicate the effective date for implementation of the policy.

**The policy will take effect on 01 July 2016**

#### 6. POLICY PRINCIPLES

- 6.1 Apart from meeting legislative requirements, this policy also emanates from the objectives determined in Council's anti-corruption policy.
- 6.2 The levying of rate on a property is an exclusive right of the Municipality which will be exercised:-
- 6.2.1 optimally and comprehensively within the Municipality; and
- 6.2.2 with consideration of the total revenue source of the Municipality.
- 6.3 The rating of properties will be done independently, justly, equitably and without prejudice and this principle will also be applied with the determination of criteria for exemptions, reductions and rebates as provided for in section 15 of the Act.
- 6.4 The levying of property rates must be implemented in such a way that: -
- 6.4.1 it is aimed at development;
- 6.4.2 it promotes sustainable local government by providing a stable and constant revenue source within the discretionary control of the Municipality; and
- 6.4.3 it promotes economic, social and local development.
- 6.5 Property rates will be levied to: -
- 6.5.1 correct the imbalances of the past; and
- 6.5.2 minimise the effect of rates on the indigent.
- 6.6 The market value of a property serves as basis for the calculation of property rates.
- 6.7 The rate tariff will be based on the value of all rateable properties and the amount the Municipality needs to fund community and subsidised services, after taking into account any possible surplus generated from trading and economic services and the amounts required to finance exemptions, rebates and reductions of rate, as approved by council from time to time.

- 6.8 Trade and economic services will be financially ring fenced and tariffs and service charges will as far as possible be calculated in such a way that the revenue generated covers the cost of the services or generate a surplus.
- 6.9 The provision for operating capital and bad debt must be related to community and subsidised services and must not include any provisions in respect of trade and economic services.
- 6.10 Property rates will be used to finance community and subsidised services.
- 6.11 Surpluses from trade and economic services may be used to subsidise community and subsidised services.
- 6.12 The revenue basis of the Municipality will be optimally protected by limiting the exemptions, rebates and reductions.

## **7. CATEGORISATION OF SERVICES**

- 7.1 The Chief Financial Officer must, subject to the guidelines provided by the National Treasury and Mayoral Committee of council, make provision for the following categories of municipal services: –
- 7.1.1 Trade services
    - 7.1.2.1 Water
    - 7.1.2.2 Electricity
  - 7.1.2 Economic services
    - 7.1.2.3 Waste removal
    - 7.1.2.4 Sewerage
  - 7.1.3 Community services
    - 7.1.3.1 Air pollution
    - 7.1.3.2 Local tourism
    - 7.1.3.3 Municipal planning
    - 7.1.3.4 Municipal public works, in respect of the needs of the Municipality in the execution of its responsibilities and to administer functions specially assigned to the Municipality under the Constitution or any other law
    - 7.1.3.5 Storm water management systems in built-up areas
    - 7.1.3.6 Trade regulations
    - 7.1.3.7 Advertising billboards and the display of advertisements in public places
    - 7.1.3.8 Cemeteries
    - 7.1.3.9 Control of public nuisances
    - 7.1.3.10 Control over undertakings that sell alcohol to the public
    - 7.1.3.11 Township development
    - 7.1.3.12 Facilities for accommodation, care and burial of animals
    - 7.1.3.13 Fencing and fences
    - 7.1.3.14 Licensing of dogs
    - 7.1.3.15 Licensing and control of undertakings that sell food to the public
    - 7.1.3.16 Local amenities
    - 7.1.3.17 Local sport facilities
    - 7.1.3.18 Municipal parks and recreation
    - 7.1.3.19 Municipal roads

- 7.1.3.20 Noise pollution
- 7.1.3.21 Pounds
- 7.1.3.22 Public places
- 7.1.3.23 Street trading / Street lighting
- 7.1.3.24 Traffic control and parking
- 7.1.3.25 Building control
- 7.1.3.26 Licensing of vehicles and vehicle permits
- 7.1.3.27 Nature reserves
- 7.1.3.28 Child-care facilities
- 7.1.3.29 Ferry boats, jetties, piers and harbours
- 7.1.3.30 Markets
- 7.1.3.31 Cleaning
- 7.1.3.32 Beaches and entertainment facilities.

## **8. CATEGORIES OF PROPERTIES**

- 8.1 Subject to section 19 of the Act, Example Municipality may, in terms of the criteria set out in its rates policy, levy different rates for different categories of rateable properties, which may include categories determined according to the (SAPOA vs City of Johannesburg (648/20111)[2012] ZASCA 157 (8 November 2012)): –
  - 8.1.1 Predominant use of the property;
  - 8.1.2 permitted use of the property; or
  - 8.1.3 geographical area in which the property is situated.
- 8.2 Categories of rateable property that may be determined in terms of paragraph 5.1 include the following: –
  - 8.2.1 residential (improved property);
  - 8.2.2 property that is vacant (empty stands) with zoning or proposed use earmarked for residential;
  - 8.2.3 property that is vacant (empty stands) with zoning or proposed use earmarked for industrial, business or commercial;
  - 8.2.4 industrial;
  - 8.2.5 business, commercial and guest houses;
  - 8.2.6 farm properties used for –
    - 8.2.6.1 agricultural purposes as defined in paragraph 2 under definitions;
    - 8.2.6.2 residential purposes as defined in paragraph 2 under definitions;
  - 8.2.7 farm properties not used for any purpose;
  - 8.2.8 smallholdings used for –
    - 8.2.8.1 agricultural purposes;
    - 8.2.8.2 residential purposes;
    - 8.2.8.3 industrial purposes;
    - 8.2.8.4 commercial and business purposes; or
    - 8.2.8.5 purposes other than those specified in subparagraphs (8.3.8.1) to (8.3.8.4).
  - 8.2.9 state-owned property and public service purpose;

- 8.2.10 municipal property;
- 8.2.11 public services infrastructure;
- 8.2.12 properties
  - 8.2.12.1 acquired through the Provision of Land and Assistance Act, 1993 (Act No 126 of 1993) or the Restitution of Land Rights Act, 1994 (Act No 22 of 1994); or
  - 8.2.12.2 which is subject to the Communal Property Associations Act, 1996 (Act No 28 of 1996);
- 8.2.13 protected areas;
- 8.2.14 properties owned by public benefit organisations and used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act, 1962 (Act No 58 of 1962);
- 8.2.15 properties used for multiple purposes, subject to section 9 of the Act;
- 8.2.16 accommodation establishments;
- 8.2.17 private open space; and
- 8.2.18 such other categories as may be determined by the council from time to time.
- 8.2.19 Properties or sections of properties (solar renewable panels and windmills or wind turbines) where renewable energy are generated which were specifically rezoned, where portions or properties are rented or leased to Solar Businesses and where rental income is generated as **defined in paragraph 2 under definitions**
- 8.2.20 Public Benefit Organisation's properties. See clause 8.2.14

## 9. CATEGORISATION OF OWNERS

- 9.1 For the purpose as described in section 3.2.1 of the policy the following categories of owners will be recognised in terms of section 15(2) of the Act:–
  - 9.1.1 Those owners who qualify and who are registered as indigent in terms of the adopted indigent policy of the Municipality;
  - 9.1.2 Owners of properties situated within an area affected by: –
    - 9.1.2.1 a disaster within the meaning of the Disaster Management Act, 2002 (Act No 57 of 2002); or
    - 9.1.2.2 any serious adverse social or economic conditions.
  - 9.1.3 Owners of agricultural properties as referred to in clause 12.1.1 of this policy;
  - 9.1.4 Owners of farm properties that are used for residential purposes;
  - 9.1.5 Owners of farm properties that are used for industrial, commercial and business purposes;
  - 9.1.6 Owners of smallholdings used for residential purposes;
  - 9.1.7 Owners of smallholdings used for industrial, commercial and business purposes; and
  - 9.1.8 Owners of developed properties not yet sold and transferred.
  - 9.1.9 Owners or Occupiers of farm properties that are used for renewable energy or renewable solar energy and wind mills or wind turbines

## 10. DIFFERENTIAL RATING

- 10.1 Criteria for differential rating on different categories of properties in terms of section 8(1) of the Act will be according to –
  - 10.1.1 the nature of the property including its sensitivity to rating, e.g. agricultural properties used for agricultural purposes; and
  - 10.1.2 the promotion of social and economic development within the Municipality.



- 10.2 Differential rating among the various property categories will be done by way of setting a different cent amount in the rand for each property category; and
- 10.3 by way of reductions and rebates as provided for in this policy document.

## **11. EXEMPTIONS**

### **11.1 Categories of properties**

- 11.1.1 The following property categories are exempt from the payment of property rates: –
- 11.1.1.2 Municipal properties are exempted from paying property rates.
- 11.1.1.3 Residential properties  
All residential property with a market value of less than the amount as annually determined by the Municipality, are exempted from paying property rates. The impermissible rates of R28 000 contemplated in terms of section 17(1)(h) of the Act and can be supplemented by council based on affordability, ratepayer profile and the municipality's predetermined level of support to the poor..
- 11.1.1.4 Public Service Infrastructure  
Is exempted from paying rates as it provides essential services to the community.
- 11.1.1.5 Public Benefit Organisations –  
Public Benefit Organisation Property means property owned by public benefit organisations and used for any specified public benefit activity listed in item 1 (welfare and humanitarian), item 2 (health care), and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act. The current property rates levy ratio of (1:0.25) in relation to residential property and PBO will be applicable.
- 11.1.1.6 Exemptions in 11.1.1.1 to 11.1.1.4 will automatically apply and no application is thus required by the owners of such property.
- 11.1.1.7 A rate-exemption certificate as issued by the South African Revenue Service (SARS), as contemplated in terms of Part 1 of the Ninth Schedule to the Income Tax Act, 1962 (Act No 58 of 1962), may be submitted together with the application.
- 11.1.1.8 The Municipality retains the right to refuse the application for exemption if the details supplied in the application were incomplete, incorrect or false.

### **11.2 Impermissible Rates**

In terms of section 17(1) of the Property Rates Act, 2004, the Municipality may, inter alia, not levy rates: –

- 11.2.1 on those parts of a special nature reserve, national park or nature reserve within the meaning of the National Environmental Management: Protected Areas Act, 2003 (Act No 57 of 2003), or of a national botanical garden within the meaning of the National Environmental Management Biodiversity Act, 2004 (Act No 10 of 2004), which are not developed or used for commercial, business, residential or agricultural purposes.
- 11.2.2 on mineral rights within the meaning of paragraph (b) of the definition for "property" in section 1 of the Act.
- 11.2.3 on a property belonging to a land reform beneficiary or his or her heirs, provided that the exclusion lapses ten years from the date on which such beneficiary's title was registered in the Deeds register.
- 11.2.4 on a property registered in the name of and primarily used as a place of public worship, including an official residence registered in the name of the church that is occupied by an office-bearer who acts as officiant of the church.

## 12. REBATES

### 12.1 Categories of properties

#### 12.1.1 Business, commercial and industrial properties

12.1.1.1 The Municipality may grant rebates to rateable undertakings that promote local, social or economic development within the municipal jurisdiction. 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.

12.1.1.2 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 the auditors stating that the objectives have been met and how they plan to continue meeting the objectives; and
- (c) an assessment by the municipal manager or his/her nominee indicating that the company qualifies.

12.1.1.3 Council will consider all LED requests on an individual basis according to merits.

#### 12.1.2 Rebate on agricultural property

12.1.2.1 the Municipality grants additional rates rebate (as set out below) in respect of properties used for agricultural purposes only, 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

<b>Financial Year</b>	<b>% Percentage Rebate</b>	<b>Application date</b>
<b>2016/2017</b>	<b>28%</b>	<b>31 August 2016</b>
2017/2018	25%	31 August 2017
2018/2019	18%	31 August 2018
2019/2020	10%	31 August 2019

12.1.2.2 In terms of section 84 of the Act the Minister for Provincial and Local Government, and in concurrence with the Minister of Finance as required through section 19 of the Act, may determine that a rate levied by council on a category of non-residential property may not exceed a prescribed ratio to the tariff levied on residential properties. In the absence of any such promulgation the Municipality will apply a standard ratio for agricultural properties from 1:0.25 (75% impermissible on the tariff for residential properties). Before the start of 2009/2010 financial year the Minister had promulgated a ratio of 1:0.25 which remains unchanged for the 2016/2017 financial year. The Amendment Municipal Property Rates Act gives more clear interpretations on the ratio(1:0.25).

12.1.2.3 The granting of additional rebates is subject to the following: –

- (a) All applications must be addressed in writing to the Municipal Manager indicating how service delivery and development obligations of the Municipality and contribution to the social and economic welfare of farm workers were met. This application will be required as a once-off requirement;
- (b) Any new applications must be addressed in writing to the Municipality by 31 August of the financial year in respect of which the application is made. Applications are only valid for one financial year.
- (c) Council reserves the right to send officials or its agents on an annual basis to premises/households receiving relief for the purposes of conducting an on-site audit of the details supplied. The onus also rests on recipients to immediately notify Council of any changes in their original applications; and
- (d) The Municipality retains the right to refuse applications for rebates if the details supplied in the application form were incomplete, incorrect or false.

No other rebates will be granted to properties that qualify for the agricultural rebate. In order to avoid doubt, properties that qualify for the agricultural rebate will not be entitled to the residential rate exemption as set out in paragraph 11.1.1.2 of this policy. The rates account must be paid up to date otherwise the application will be unsuccessful.

#### 12.1.2.4

#### 12.1.2.5 Rebates on Public Benefit Organisations

The Municipality may grant additional rates rebate in respect of properties owned by public benefit organisations and used for any specific benefit activities listed in Part 1 of the Nine Schedule to the Income Tax Act, after to the current property rates levy ratio of (1:0.25) is applied. Applications received after 31 August for the financial year in respect of which the application is made will only not be considered. The rates account must be paid up to date otherwise the application will be unsuccessful.

#### **12.1.2.6 Rebates will be granted on prescribed application form.**

**12.1.2.6** Rebates will **only be granted on vacant municipal properties** which are being developed. Proper buildings and plants must be erected within six months after registration at the deeds office. Construction must be completed within one year in order to qualify for rates rebates. Failure to complete construction on these properties within one year after registration of properties at the deeds office, the municipality will use the building plans amount as a basis of municipal property valuation, and levy the properties accordingly. Rebates will only be granted on vacant municipal land. The rebates will be implemented as follows:

##### **First Year (Year 1)**

A rebate of 100% on the municipal value will be allowed to these properties.

##### **Second Year (Year 2)**

A rebate of 100% on the municipal value will be allowed to these properties.

##### **Third Year (Year 3)**

A rebate of 60% on the municipal value will be allowed to these properties.

##### **Fourth Year (Year 4)**

A rebate of 40% on the municipal value will be allowed to these properties.

##### **Fifth Year (Year 5)**

A rebate of 20% on the municipal value will be allowed to these properties.

##### **Sixth Year (Year 6)**

A rebate of 0% on the municipal value will be allowed to these properties.

***The rebates will be applicable on all these municipal properties where development has taken place since 01 July 2012.***

## **12.2 Categories of Owners**

#### 12.2.1 Indigent owners -.

The owners that qualify and are registered indigents in terms of the Municipality's policy for indigents receive a rebate on the payment of rates as specified in the Municipality's policy for indigents.

#### 12.2.2 Rebates for retired and disabled persons

12.2.2.1 Retired and disabled persons qualify for special rebates in accordance with their monthly household income. Property owners who meet the following requirements may apply for a rebate:-

- (a) The property must be registered in the name of the applicant or the usufruct of the property must be established in the name of the applicant.

- (b) The owner must be at least sixty (65) years of age and total gross monthly income or earnings must not exceed
  - (i) an amount of R4 900 to qualify for a 50% rates rebate
  - (ii) an amount of R5 600 to qualify for a 45% rates rebate
  - (iii) an amount of R6 400 to qualify for a 40% rates rebate

**(c) The property owner may not be the owner of more than one property.**

- (d) The owner must occupy the relevant property. 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.
  - (e) In the case of a semi-detached house, of which a section is rented out, only the rates paid on that section occupied by the owner is subject to rebates.
- 12.2.2.2 Property owners must apply annually for a rebate on a prescribed form as stipulated by the Municipality, and these applications must reach the Municipality by 30 September of the financial year in respect of which rates are levied. If the rebate applied for is granted, the rebate will apply for the full financial year. Applications received after 30 September for the financial year in respect of which the application is made will only be applied for the remainder of that financial year if approved.
- 12.2.2.3 The Municipality retains the right to refuse the granting of rebates if the details supplied in the application were incomplete, incorrect or false.
- 12.2.2.4 In the case of where the property has been sold during the financial year and where rebates have been granted, the rebates amount will be written back or debited against the account of the owner. The rebate will be forfeited.
- 12.2.2.5 Applications for rebates must be completed on the official Emthanjeni Municipality's Rebate application form and must be accompanied by the following information: –
- (a) a certified copy of the identity document of the owner or any other proof of the owner's age which is acceptable to the Municipality;
  - (b) sufficient proof of income of the owner and the his/her spouse;
  - (c) an affidavit from the owner;
  - (d) if the owner is a disabled person, satisfactory proof submitted to the Municipality that the relevant person receives a disability pension payable by the state; and

### **13. REDUCTIONS**

- 13.1 Reductions as contemplated in section 15 of the Act will be considered on an ad-hoc basis in the event of the following:-
- 13.1.1 Partial or total destruction of a property; or
  - 13.1.2 Disasters as defined in the Disaster Management Act, 2002 (Act 57 of 2002).
- 13.2 The following conditions shall be applicable in respect of clause 13.1:-
- 13.2.1 The owner of the property referred to in clause 13.1.1 shall apply in writing for a reduction and the onus will rest on such applicant to prove to the satisfaction of the Municipality that his property has been totally or partially destroyed. He/ she will also have to indicate to what extent the property can still be used and the impact on the value of the property.
  - 13.2.2 Owners of property referred to in clause 13.1.2 will only qualify for a rebate if affected by a disaster as referred to in the Disaster Management Act, 2002 (Act No. 57 of 2002).
  - 13.2.3 A maximum reduction to be determined on an annual basis shall be allowed in respect of both clauses 13.1.1 and 13.1.2. .
  - 13.2.4 An ad-hoc reduction will not be given for a period in excess of 6 months, unless the Municipality gives further extension on application.
  - 13.2.5 If rates were paid in advance prior to granting of a reduction the Municipality will give credit to such an owner as from the date of reduction until the date of lapse of the reduction or the end of the period for which payment was made whichever occurs first.

- 13.2.6 The CFO in consultation with the Executive Committee will determine the percentage (%) of reduction in rates levy applicable to the damage caused by these properties.

FINAL

#### **14. COST OF EXEMPTIONS, REBATES AND REDUCTIONS**

- 14.1 The chief financial officer must inform council during the budgeting process of all the costs associated with the proposed exemptions, rebates, reductions, phasing-in of rates and grants in the place of rates.
- 14.2 Provision must be made on the operating budget for –
  - 14.2.1 the full potential revenue associated with property rates; and
  - 14.2.2 the full cost associated with exemptions, rebates and reductions.

#### **15. MULTIPLE USE OF PROPERTIES**

Properties used for multiple purposes which for example do not fall within the definition of Residential Properties and, accordingly, do not qualify for the residential rate, may be included into the category of multiple-use properties, as per section 9 (1) (c) of the Property Rates Act, for which an apportionment of value for each distinct use of the property will be calculated by the municipal valuer and used for billing at the appropriate and applicable rate, in cases where the municipal valuer considers it reasonable to apply this category as per section 9 (1) (c) of the Property Rates Act.

#### **16. PROPERTY REGISTER**

- 16.1 A property register, divided into Sections A and B, regarding all properties in the municipal area of jurisdiction, must be compiled and maintained by the Municipality.
- 16.2 Section A of the register will consist of the current valuation roll of the Municipality and will include all supplementary valuations, as done from time to time.
- 16.3 Section B of the register will specify which properties on the valuation roll or any supplementary valuation roll are subject to: –
  - 16.3.1 exemption from rates in terms of section 15 of the Act;
  - 16.3.2 a reduction or rebate in terms of section 15 of the Act;
  - 16.3.3 the phasing in of tariffs in terms of section 21 of the Act; and
  - 16.3.4 exclusions as referred to in section 17 of the Act.
- 16.4 The register will be open for inspection by the public during office hours at the head office of the Municipality or on the internet website of the Municipality.
- 16.5 Section A of the register will be updated at least annually by the Municipality during the supplementary valuation process.
- 16.6 Section B of the register will be updated annually as part of the implementation of the Municipality's annual budget.

#### **17. NOTIFICATION OF RATES**

- 17.1 Council will give notice at least 30 days before the rate approved during the annual budget meeting will come into effect. Accounts furnished after the 30 days' notice will be based on the new rates.
- 17.2 A notice containing the extent of council's resolution and the date on which the new rate will come into effect will be displayed by the Municipality at places installed for this purpose.

## **18. CONSULTATION PROCESS**

- 18.1 Before council commands a new valuation in terms of the Act, a consultation process involving all interest groups will be undertaken during which the purpose and method of valuation will be explained.
- 18.2 Before the Municipality accepts the rates policy the municipal manager will follow a process of public participation, as prescribed in chapter 4 of the Municipal Systems Act, and comply with the following requirements: –
- 18.2.1 Display the draft property rates policy continuously for a period of thirty (30) days at the Municipality's head office, satellite offices and on the website.
- 18.2.2 Publish a notice in the media stating that the draft property rates policy was compiled for submission to council and that such a policy is available at the different municipal offices and on the website for public inspection.
- 18.2.3 Property owners and interested persons may obtain a copy of the draft policy from the municipal office during office hours at a prescribed cost per copy.
- 18.2.4 Property owners and interested parties are invited to address written suggestions or representations to the Municipality within the period prescribed in the notice.
- 18.2.5 Council will consider all suggestions and/or representations received during the finalisation of the property rates policy.

## **19. FURNISHING OF ACCOUNTS**

- 19.1 The Municipality will furnish each person liable for the payment of a rate with a written account, specifying: –
- 19.1.1 the amount due for rates payable;
- 19.1.2 the date on or before which the amount is payable;
- 19.1.3 how the amount was calculated;
- 19.1.4 the market value of the property; and
- 19.1.5 exemptions, reductions and rebates or the phasing-in of rates, if applicable.
- 19.2 A person liable for the payment of rates remains liable for payment, whether or not that person has received a written account from the Municipality. Inquiries must be addressed to the Municipality by such a person who has not received a written account.
- 19.3 In the case of joint ownership the Municipality will, upon request, furnish written accounts to one or more individual owners.
- 19.4 In the case of joint ownership the Municipality may, in order to limit costs and prevent unnecessary administration, recover the rates continuously from one of the joint owners.

## **20. PAYMENT OF RATES**

- 20.1 Council may claim the payment of rates: –
- 20.1.1 on a monthly basis; or
- 20.1.2 annually before 30 September of each year.
- 20.2 Rate payers may choose to pay rates in one instalment annually on or before 30 September of each year. The property owner subject to rates must notify the municipal manager or his/her nominee by no later than 30 June

in any financial year, or such later date in the financial year as determined by the Municipality, that he/she wishes to pay all rates in respect of such a property in annual instalments, after which such an owner shall be entitled to pay all rates in the subsequent financial year and all subsequent financial years annually until he/she withdraws this notice in similar manner.

20.3 If a rate is payable: -

20.3.1 in a single amount annually, it must be paid on or before a date determined by the Municipality.

20.3.2 in instalments, it must be paid on or before a date in each period determined by the Municipality.

20.4 Interest on rates in arrear, whether paid annually or in equal monthly instalments, shall be calculated in accordance with the provisions of the Municipality's policy on credit control and debt collection.

20.5 If a property owner who in terms of this policy is liable for the payment of property rates fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Municipality's by-law on credit control and debt collection.

20.6 Rates in arrear shall be recovered from tenants, occupiers and agents for the owner in terms of section 28 and 29 of the Act and the Municipality's policy on credit control and debt collection.

20.7 In the event of rates levied emanating from a supplementary valuation, payment thereof will be according to the date determined by the Municipality and payment thereof may not be withheld pending an objection or appeal as determined by section 78(2) of the Act.

20.8 In the event that a property has been transferred to a new owner and rates emanating from a supplementary valuation become due and payable, the owner on date of the levy will be held responsible for the settlement of the interim rates account.

20.9 Where the rates on a specific 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 adjusted retrospectively for the period of 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.

20.10 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, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

20.11 Rates Clearance Certificates:-

20.11.1 will be valid for up to 60 days;

20.11.2 no extension on a certificate will be granted. If it expires a new application for clearance must be made;

20.11.3 if the valid period surpasses 30 June, the total annual debit for the following financial year will be payable;

## **21. ADJUSTMENT OF RATES PRIOR TO SUPPLEMENTARY VALUATION**

21.1 In circumstances where a valuation has been carried out by the municipal valuer in pursuance of a Supplementary Valuation (SV) in terms of section 78(1)(d) or 78(1)(f) of the MPRA as a result, for example, of a demolition having taken place on a property or a fire having destroyed buildings on a property, but the Municipality has not yet included such valuation of the relevant property in a SV, such valuation shall be



submitted to the CFO for approval to levy rates on the property in accordance with such valuation, with effect from the date of the occurrence of the event which caused a SV to be required.

- 21.2 If the owner of a property which has been subdivided or consolidated after the last general valuation wishes to sell the consolidated erf, or one or more of the erven which have been subdivided off the parent erf, as the case may be, applies to the Municipality for a clearance certificate in terms of section 118 of the Systems Act and if the Municipality has not yet included such valuation of the relevant property/s in a SV, then:-
- 21.2.1 the municipal valuer shall conduct a valuation of the relevant property(ies) for purposes of a SV; and
- 21.2.2 the valuation shall be submitted to the CFO for approval of the levying of rates on such property(ies) in accordance with such valuation, with effect from the date on which the relevant subdivision or consolidation (as the case may be) was registered in the Deeds Office.
- 20.3 Any valuations performed in terms of paragraph 15 shall be included in the next SV prepared by the City without any amendments to the valuation and any objections to such valuation may only be lodged once such SV is made public in terms of section 49 of the MPRA.

## **22. FREQUENCY OF VALUATIONS**

- 22.1 The Municipality shall prepare a new valuation roll at least every five (5) years as stated in the Amendments to the Municipal Property Rates Act.
- 22.2 In accordance with the Act the Municipality, under exceptional circumstances, may request the MEC for Local Government and Housing, to extend the validity of the valuation roll to five (7) years.
- 22.3 Supplementary valuations shall be done on a continual basis, but at least on an annual basis, in order to ensure that the valuation roll is maintained.

## **23. REVIEW PROCESS**

The Property Rates Policy must be reviewed on an annual basis to ensure that it complies with the strategic objectives of the Municipality, as stipulated in the Integrated Development Plan and other applicable legislation.

**This policy will come into effect on 01 July 2016**

## **24. IMPLEMENTATION**

This policy will come into effect on 1 July 2016