

MAY 2010

EMTHANJENI MUNICIPALITY

RATES POLICY

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

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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; and
 - iii. the Rates Policy.
- 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).
- 2.4 **Ratepayer**—means

- (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;
- 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 as from 1 July – 30 June the following year.*
- 2.8 *Disability: as defined in applicable legislation*

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 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 with similar properties 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.

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. CLASSIFICATION OF SERVICES AND EXPENDITURE

6.1 The Municipal Manager or his/her nominee must, subject to the guidelines provided by the National Treasury and Executive Committee of the Municipality, make provision for the following classification of services:-

- (a) Trading services
 - I. Water
 - ii. Electricity

- (b) Economic services
 - i. Refuse removal.
 - ii. Sewerage disposal.

- (c) Community services
 - i. Air pollution
 - ii. Fire fighting services
 - iii. Local tourism
 - iv. Municipal planning
 - v. Municipal public works, only in respect of the needs of municipalities in the discharge of their responsibilities and to administer functions specially assigned to them under the Constitution or any other law.
 - vi. Storm water management system in built-up areas.
 - vii. Trading regulations
 - viii. Fixed billboards and the display of advertisements in public places
 - ix. Cemeteries
 - x. Control of public nuisances
 - xi. Control of undertakings that sell liquor to the public
 - xii. Township development
 - xiii. Facilities for accommodation, care and burial of animals
 - xiv. Fencing and fences
 - xv. Licensing of dogs
 - xvi. Licensing and control of undertakings that sell food to the public
 - xvii. Local amenities
 - xviii. Local sport facilities
 - xix. Municipal parks and recreation
 - xx. Municipal roads

- xxi. Noise pollution
- xxii. Pounds
- xxiii. Public places
- xxiv. Street trading/street lighting
- xxv. Traffic and parking
- xxvi. Building control
- xxvii. Licensing of motor vehicles and transport permits
- (d) Subsidised services
 - i. Health.
 - ii. Libraries and museums.
 - iii. Proclaimed roads.

6.2 Trading and economic services must be ring fenced and financed from service charges, while community and subsidised services will be financed from profits on trading and economic services, regulatory fees, rates and rates related income.

6.3 **Expenditure** will be classified in the following **categories**:

- (a) Salaries, wages and allowances
- (b) Bulk purchases
- (c) General expenditure
- (d) Repairs and maintenance
- (e) Capital charges (interest and redemption)/depreciation
- (f) Contribution to fixed assets
- (g) Contribution to funds-
 - i. bad debts.
 - ii. working capital; and
 - iii. statutory funds.
- (h) Contribution to reserves.

- (i) Gross expenditure.
- (j) Less charge-outs
- (k) Net expenditure.
- (l) Income.
- (m) Surplus/Deficit

6.4 **Cost centres** will be created to which the costs associated with providing the service can be allocated-

- (a) by Department;
- (b) by Section/service; and
- (c) by Division/service.

6.5 The subjective classification of expenditure each with a unique vote will be applied to all cost centres.

7. **CATEGORIES OF PROPERTY**

7.1 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) use of the property;
- (b) permitted use of the property
or
- (c) geographical area in which the property is situated

7.2 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

8. 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. 57 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

9. 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;
or
- (c) by apportioning the market value of a property to the different purposes for which the property is used; and
- (d) applying the relevant cent amount in the rand to the corresponding apportioned market value.

10. DIFFERENTIAL RATING

10.1 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.

10.2 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

10.3 by way of reductions and rebates.

11. EXEMPTIONS

11.1 The following categories of property are exempted from rates:

(a) Municipal properties

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

(b) Residential properties

All owners of residential property are exempted from paying rates on the first R18 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.

11.2 The following categories of property are exempted on the first 30 % of the market value of from paying rates in (a) to (i):

(a) Public Service Infrastructure

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

(b) 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):

(c) 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.

(d) Charitable institutions

Property belonging to not-for-gain institutions or organisations that perform charitable work.

(e) Sporting bodies

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

(f) Cultural institutions

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

(g) Museums, libraries, art galleries

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

(h) Youth development organisations

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

(i) 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.

11.3 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, if applicable, must be attached to all applications;
- (c) the Municipal Manager or his/her nominee must approve all applications;
- (d) applications must reach the Municipality before the end of September *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 were incomplete, incorrect or false.

12. REDUCTIONS

12.1 A reduction in the municipal valuation as contemplated in section 15(1)(b) 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. 57 of 2002); or
- (b) any other serious, adverse social or economic conditions.

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

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

13. REBATES

13.1. 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:

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- 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) Rural property rebate
- i. Rural properties will be granted a rebate subject to the owner providing the municipality with certain information in an affidavit by 30 November each year *or alternatively any other date determined by Council* preceding the start of the new municipal financial year for which relief is sought
- a. The extent of municipal services provided to rural properties
- i. 7.5% rebate, if there are no municipal roads next to the property.
 - ii. 7.5% rebate, if there is no municipal sewerage to the property.
 - iii. 7.5% rebate, if there is no municipal electricity to the property.
 - iv. 7.5 % rebate, if water is not supplied by the municipality
 - v. 7,5% rebate, if there is no refuse removal that is provided by the municipality.
 - vi. 20 % rebate if Permanent residence provided to workers.

b. The following rebates be granted to the extent to which agriculture assists in meeting service delivery and development obligations of the municipality and contribution to the social and economic welfare of farm workers:

- i. 7.5% rebate, if such residential properties are provided with potable water.
- ii. 7.5% rebate, if the farmer electrifies such residential properties for the farm workers.

c. 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***

(d) Conservation Land

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

(e) Historical or heritage properties

No rebates are granted other than residential rebates if appropriate.

13.3 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. occupy the property as his/her normal residence;
 - 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 income from all sources (including income of spouse of owner) not exceeding **R 3 765**; 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.
- i. 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.
- iv. These applications must reach the municipality before the end of September preceding the start of the new 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.

13.4 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.

14. 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.
- (b) Rate increases will be used to finance the increase in operating costs of community and subsidised services.
- (c) 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.
- (d) 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.
- (e) Affordability of rates to ratepayers.
- (f) All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.
- (g) Rates increases for agricultural properties will increase or decrease after the phasing in period collapsed.

15. 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.

16. PAYMENT OF RATES

- 16.1 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.
- 16.2 If the owner of property that is subject to rates, notify the Municipal Manager or his/her nominee not later than 31 *March* 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.
- 16.3 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.
- 16.4 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.
- 16.5 Arrears rates shall be recovered from tenants, occupiers and agents of the owner, in terms of *the Credit Control Policy of Emthanjeni Municipality*.
- 16.6 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.

16.7 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.

17. REGULAR REVIEW PROCESSES

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

18. SHORT TITLE

This policy is the Property Rates Policy of Emthanjeni Municipality.

19. ENFORCEMENT/IMPLEMENTATION

This policy has been approved by the Emthanjeni Municipality in terms of resolutiondated 27 May 2010 and comes into effect from 1 July **2010**.