



PROVINCE OF THE EASTERN CAPE
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PROVINSIE OOS-KAAP

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LOCAL AUTHORITY NOTICE

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LOCAL AUTHORITY NOTICE

No. 65

KOUGA MUNICIPALITY

PROPERTY RATES BY-LAW

The Municipal Manager of Kouga Local Municipality hereby, in terms of Section 6 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004), publishes the Property Rates By-law for the Kouga Local Municipality, as approved by its Council as set out hereunder.

PURPOSE OF BY-LAW

To allow Council to exercise its power to value and impose rates on immovable properties located within its area of jurisdiction in such a manner that it will contribute to effective and economic service delivery to the entire community.

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PREAMBLE

WHEREAS Section 229(1) of the Constitution authorises a municipality to impose rates on property and surcharges on fees for services provided by or on behalf of the municipality.

WHEREAS in terms of section 3 of the Property Rates Act, a municipal council must adopt a policy consistent with the Property Rates Act on the levying of rates on rate-able property in the municipality.

WHEREAS in terms of section 6(1) of the Property Rates Act, a municipality must adopt by-laws to give effect to the implementation of its rates policy.

WHEREAS in terms of section 6(2) of the Property Rates Act, by-laws adopted in terms of section 6(2) may differentiate between different categories of properties; and different categories of owners of properties liable for the payment of rates

AND NOW THEREFORE, BE IT INACTED by the Kouga Local Municipality, as follow:

1 DEFINITIONS

"Accommodation establishment" means -

In this by-law, unless the context indicates otherwise, any word or expression to which a meaning has been attached in the Local Government: Municipal Property Rates Act No 6 of 2004 shall bear the same meaning and -

"Act" means the Local Government Municipal Property Rates Act, 6 of 2004 and includes any regulations, directives and notices proclaimed, made or issued by a competent authority in terms thereof;

"Accommodation establishment" means -

- a) a **"Guest House"** means a dwelling house which is used for the purpose of letting individual rooms for residential accommodation, with or without meals, and which exceeds the restrictions of a bed and breakfast establishment.
(Includes Self Catering units)
- b) **"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.
- c) **"Resort accommodation"** means a property used for the erection of tents, or other temporary or permanent structures for temporary accommodation for visitors or holiday-makers, which includes ablution, cooking and other facilities that are reasonably and ordinarily related to camping and/or temporary accommodation, 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;

"affordable" means that the ability of a person to pay rates will be taken into account by the municipality in determining property rates in terms of this by-law;

"agent", in relation to the owner of a property, means a person appointed by the owner of the property:

- a) to receive rental or other payments in respect of the property on behalf of the owner; or
- b) to make payments in respect of the property on behalf of the owner.

"agricultural industry" means an enterprise or concern for the processing of agricultural products or energy generation on a farming unit owing to the nature, perishables and fragility of such agricultural products and includes, inter alia, wineries and farm pack stores, but does not include service trades;

"agricultural property" means agricultural land as defined in the Subdivision of Agricultural Land Act, 70 of 1970 and includes all land situated in the demarcated municipal area and which is used for agricultural purposes as defined in this by-law, except such land included in the boundaries of former disestablished municipalities now falling within the municipality and which was not zoned for agricultural purposes in terms of the zoning scheme regulations of such municipalities and also smallholdings;

"agricultural purpose", in relation to the use of agricultural property, excludes the use of such property for the purpose of eco-tourism or for the trading in or hunting of game;

"agricultural use" 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 or the propagation and harvesting of fish, but excludes the use of a property for the purpose of eco-tourism and any portion that is used for commercial or business purposes. In this definition such properties could also be included within the urban edge of a town;

"annually" means once every financial year;

"bona-fide farmers" means a genuine or real farmer whose dominant income is generated from farming activities, on an agricultural property, within the Kouga municipal area, and is taxed by SARS as a bona-fide farmer.

"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.

"category" -

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

"district management area" means a part of a district municipality, which in terms of section 6 of the Municipal Structures Act has no local municipality and is governed by that municipality alone;

“district municipality” means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155(1) of the Constitution as a category B municipality;

“Eco-tourism properties, Nature Reserves, Conservation Areas, Open Space Zone III”.

- a) a protected area as listed in section 10 of the Protected Areas Act, 2003;
- b) land that is proclaimed in terms of the National Environmental Management: Biodiversity Act, 2004, Act 10 of 2004;
- c) a nature reserve established in accordance with the Nature and Environment Conservation Ordinance, no 19 of 1974;
- d) or land that is proclaimed in terms of the National Environmental Management: Biodiversity Act, 2004, Act 10 of 2004;
- e) any land area zoned as open area zone III in accordance with the Municipality’s zoning scheme regulations;
- f) 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 relation to the calculation of a rate, means an exemption granted by the Council in terms of Section 15(1)(a) of the Act;

“financial year” means the period starting from 1 July in a year to 30 June of the next year;

“household income” means the income accruing to all members of the household permanently residing at the address. It includes income of spouses;

“income tax act” means the Income Tax Act ,1962 (Act 58 of 1962);

“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;

“indigent person” means a person whose household income does not exceed the minimum household income as predetermined by the council;

“local community”, in relation to the municipality, means -

- a) that body of persons comprising-
 - (i) the residents of the municipality;
 - (ii) the ratepayers 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 disadvantaged Sections of such body of persons;

"local municipality" means 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;

"Mayor" means the Councillor designated as Mayor of the Municipality in terms of Section 57(1) of the Municipal Finance Management Act, No 56 of 2003;

"MEC for Local Government" means the member of the Executive Council of a province who is responsible for local government in that province;

"multiple purposes", in relation to a property, means the use of a property for more than one purpose as contemplated by Section 9 of the Act;

"municipal Council" or "Council" means a municipal council referred to in section 18 of the Municipal Structures Act, and in this by-law means the municipal Council of Kouga Municipality;

"municipal property" is property registered or vested in the name of Kouga Municipality;

"Municipal Finance Management Act" means the Local Government: Municipal Finance Management Act, 2003 (Act 56 /2003);

"municipality"-

- a) as a corporate entity, means a municipality described in Section 2 of the Municipal Systems Act; 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);

"municipal manager" means a person appointed as municipal manager of the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any official acting in this position and where, in this by-law, reference is made to the "accounting officer" such reference shall be construed as the municipal manager acting in this capacity ;

"occupier", in relation to a property, means a person in actual occupation of a property whether or not that person has a right to occupy the property and, where the text so requires, includes a lessee;

"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 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” in the Act, means the organ of state which owns or controls that public service infrastructure as envisaged by the definition in the Act of the term “publicly controlled”, provided that a person mentioned below shall for the purposes of this by-law be regarded by the 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 curatorship;
 - (vi) an usufructuary or other 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 buyer, in the case of a property that was sold and of which possession was given to the buyer pending registration of ownership in the name of such buyer;

“permitted use”, in relation to a property, means the limited purposes for which the property may be used in terms of:

- a) any restrictions imposed by:
 - (i) a condition of title;
 - (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 without financial gain 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. Such properties must also be included as residential in a valuation list in terms of section 48(2)(b) of the Act;

“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 service infrastructure;

"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 those activities.

"public service infrastructure" means publicly controlled infrastructure of the following kinds:

- a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- e) railway lines forming part of a national railway system;
- f) communication towers, masts, exchanges or lines forming part of a communication system serving the public;
- g) runways or aprons at national or provincial airports;
- h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- i) any other publicly controlled infrastructure as may be prescribed; or
- j) rights of way, easements or servitudes in connection with infrastructure mentioned in section paragraph (a) to (i) above.

"rate" means a municipal rate on 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 by the Council on the amount of the rate payable on the property;

"reduction", in relation to a rate payable on a property, means the lowering of the amount for which the property was valued and the rating of the property by the Council at that lower amount;

"residential lifestyle farm" means non-urban domestic properties, previously defined for rates purpose as agricultural, , predominantly used by the occupier(s), thereof for residential purposes and where the remaining Agricultural land on which the dwelling is situated, is not used for any bona fide farming activities as defined in the definition of bona fide farmer/ farming activities;

"residential property" means

- a) is used predominantly for residential purposes, including any adjoining/adjacent developed property registered in the name of the same owner and used together with such residential property as if it were one property. This use must indicate that the two properties cannot be traded as individual properties but must be owned and used as if they were one.
- b) is a unit registered in terms of the Sectional Title Act 95 of 1986 which is used together with a residential unit, for example a garage or domestic worker's quarters. Any such unit shall be regarded as one residential property for valuation, rate rebate or valuation reduction purposes, if still used dominantly with a 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; or
- e) are retirement schemes and/or life right schemes used predominantly for residential purposes

"State owned" as far as it relates to property owned and used by the State, means property owned and used by the National Government and the Eastern Cape Provincial Government for the provision of community type services, including but not limited to policing services and hospitals. All other property owned and used by the State will be classified in accordance with its use i.e business for offices, residential for housing schemes, etc.;

"vacant property" means any land without any buildings or structures that could be used for residential or other purposes as determined by the municipal valuer.

"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 under "agricultural use". which are dually utilise and includes all land situated in the demarcated municipal

2 PURPOSE

The purpose of the by-law is:

- 2.1 to comply with the provisions of Section 3 of the Act;
- 2.2 to determine criteria to be applied in respect of:
 - a) the levying of differential rates for different categories of properties;
 - b) exemptions;
 - c) reductions and rebates; and
 - d) rate increases;
- 2.3 to determine or provide criteria for the determination of:
 - a) categories of properties for the purpose of levying different rates; and
 - b) categories of owners of properties or categories of properties, for the purpose of granting exemptions, rebates and reductions;

- 2.4 to determine how the municipality's powers must be exercised in relation to multi-purpose properties;
- 2.5 to identify and quantify to the municipality in terms of cost and benefit to the community:
 - a) exemptions, rebates and reductions;
 - b) exclusions; and
 - c) rates on properties that must be phased in;
- 2.6 to take into account the effect of rates on the poor;
- 2.7 to take into account the effect of rates on organisations conducting particular public benefit activities;
- 2.8 to take into account the effect of rates on public service infrastructure;
- 2.9 to determine measures to promote local economic and social development; and
- 2.10 to identify all rateable property that is not rated.

3 APPLICATION OF BY-LAW

- 3.1 Where this by-law contradicts national legislation, such legislation has preference over this by-law. The Municipal Manager shall bring such conflicts immediately to the attention of the municipality once he becomes aware of such conflicts and will propose changes to the municipality's by-laws to eliminate such conflicts.
- 3.2 If there is any conflict between this by-law and the Property Rates policy of the municipality, this by-law will prevail.
- 3.3 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

4 PRINCIPLES

- 4.1 The levying of a rate on a property is an exclusive power of the municipality which will be exercised:
 - a) optimally and comprehensively within the municipality;
 - b) with consideration of the total income base of the municipality; and
 - c) with consideration of the fair distribution of the rates requirement over all the properties in the municipal area
- 4.2 The rating of property will be undertaken impartially, fairly, equitably and without prejudice, and these principles also apply to the determination of criteria for exemptions, reductions and rebates contemplated in Section 15 of the Act.
- 4.3 The rating of property will be implemented in a way that:
 - a) is developmentally orientated;
 - b) supports sustainable local government by providing a stable and constant revenue source within the discretionary control of the municipality;
 - c) supports local and social economic development; and
 - d) it remains affordable to all.

- 4.4** Property rates will be levied to:
- a) ensure access to community and subsidised services to all residents; and
 - b) minimise the effect of rates on the poor.
- 4.5** The market value of a property as recorded in the municipal valuation roll serves as basis for the calculation of property rates.
- 4.6** The rates tariff will be based on the value of all rateable properties and the amount required by the municipality to balance its operating budget after taking in account profits generated on trading and economic services and the amounts required to finance exemptions, rebates, reductions and phasing-in of rates as approved by the Council from time to time.
- 4.7** Trading and economic services will be financially ring fenced and tariffs and service charges calculated in such a manner that the income generated covers the cost of the services or generate a surplus to meet specific identified service related objectives.
- 4.8** Property rates will be used to finance community and subsidised services.
- 4.9** Budgeted contributions from trade and economic services may be used to subsidise community and subsidised services;
- 4.10** The provision for working capital and bad debts must relate to the requirements for community services and not to those of trading and economic services.
- 4.11** The revenue base of the municipality will be protected by limiting reductions, exemptions and rebates to those that are fair and reasonable.

5 CLASSIFICATION OF SERVICES AND EXPENDITURE

- 5.1** The Mayor and accounting officer shall, subject to the guidelines provided by the national treasury and the Council and the provisions of Sections 84 and 85 of the Municipal Structures Act 1998 relating to the division of functions and powers between the municipality and the Cacadu District Municipality, including any proclamation issued by the MEC for local government in this regard, 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) Local tourism.
 - (iii) Municipal planning.
 - (iv) Municipal public works, related to the functions of the municipality.
 - (v) Stormwater management systems in built-up areas.
 - (vi) Trading regulations.
 - (vii) Billboards and the display of advertisements in public places.
 - (viii) Cemeteries, funeral parlours and crematoria.

- (ix) Control of public nuisances.
- (x) Control of undertakings that sell liquor to the public.
- (xi) Facilities for the accommodation, care and burial of animals.
- (xii) Fencing and fences.
- (xiii) Fire Fighting services
- (xiv) Licensing and control of undertakings that sell food to the public.
- (xv) Local amenities.
- (xvi) Local sport facilities.
- (xvii) Municipal parks and recreation.
- (xviii) Municipal roads.
- (xix) Noise pollution.
- (xx) Pounds.
- (xxi) Public places.
- (xxii) Street trading/street lighting.
- (xxiii) Traffic and parking.
- (xxiv) Building control.
- (xxv) Licensing of motor vehicles and transport permits.
- (xxvi) Nature reserves.
- (xxvii) Childcare facilities.
- (xxviii) Pontoons, ferries, jetties and harbours.
- (xxix) Markets.
- (xxx) Cleansing.
- (xxxi) Beaches and amusement facilities.

5.2 Expenditure will be classified in the following categories.

a) Subjective classification:

- (i) Employee related cost;
- (ii) Councilors remuneration;
- (iii) Contributions to/from Provision
- (iv) Contracted Services
- (v) Depreciation and Amortizations
- (vi) Interest Expense – External Borrowing
- (vii) Bulk Purchases
- (viii) General expenditure;
- (ix) Total expenditure;
- (x) Revenue; and
- (xi) Surplus/Deficit.

b) Objective classification:

Cost centers will be created to which the costs associated with providing the service can be allocated-

- (i) by department;
- (ii) by section/service; and
- (iii) by division/service.

5.3 The subjective classification of expenditure, each with a unique vote will be applied to all cost centers.

6 THE LEVYING OF RATES

The municipality shall, subject to the provisions of sections 10 and 11 of this by-law, levy different rates for different categories of all rateable properties in the area of jurisdiction of the Kouga Municipality, which may include categories determined 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 CATEGORIES OF PROPERTY

Properties will be categorised as follows:

- a) accommodation; (Bed and breakfast, Guest House; Resorts, incl. Sectional Titles)
- b) residential properties, formal and informal, including sectional titles;
- c) property that is vacant (empty stands) with zoning or proposed use earmarked for residential purposes;
- d) property that is vacant (empty stands) with zoning or proposed use earmarked for industrial purposes;
- e) property that is vacant (empty stands) with zoning or proposed use earmarked for business and commercial purposes;
- f) industrial properties; (improved)
- g) business and commercial properties; (improved)
- h) farm properties used for agricultural purposes;
- i) farm properties used for commercial purposes including eco-tourism, game farming and hunting;
- j) farm properties used for residential purposes (Life Style, including sectional titles);
- k) farm properties used for industrial purposes; (Wind farms and other industrial purposes)
- l) state-owned properties;
- m) municipal properties, i.e. properties registered in the name of the Kouga Municipality or which vest in the Municipality;
- n) public service infrastructure;
- o) property used for residential purposes within privately owned towns serviced by the HOA;
- p) private open space within privately owned towns serviced by the HOA;
- q) property -
 - (i) 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); (same rate as informal settlements under residential) or
 - (ii) which is subject to the Communal Property Association Act, 1996 (Act no 28 of 1996); (same rate as informal settlements under residential)
- r) conservation areas;
- s) properties on which national monuments are proclaimed;
- t) properties owned by public benefit organizations and used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act, no 58 of 1962, including religious organizations, charities, sport and museums;

- u) properties used for multiple purposes corresponding with the permitted use of the property in terms of the municipality's zoning or land use scheme regulations;
- v) any special geographical area determined by resolution of the Council.

8 CATEGORIES OF OWNERS

For the purpose as described in sections 4.2 and 4.3 of this by-law the following categories of owners will be recognised in terms of section 15(2) of the Act:

- a) Those owners who qualify and who are registered as indigent in terms of the adopted indigent policy of the Municipality;
- b) Owners of properties 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 serious adverse social or economic conditions.
 - Owners of properties situated in "privately owned townships" serviced by the owner;
 - Owners of agricultural properties;
 - Owners of farm properties and small holdings that are used for residential purposes;
 - Owners of farm properties or small holdings that are used for industrial, commercial and business purposes; and
 - Owners of developed properties not yet sold and transferred.

9 DIFFERENTIAL RATES

9.1 Criteria for differential rating on different categories of properties in terms of section 8(1) of the Act will be according to:

- (i) the nature of the property including its sensitivity to rating, e.g. agricultural properties used for agricultural purposes; and
- (ii) the promotion of social and economic development within the Municipality.

9.2 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

9.3 by way of reductions and rebates as provided for in this by-law.

10 EXEMPTIONS

The following property categories are exempt from the payment of property rates:

- a) **Municipal properties**
Municipal properties which are not used by the trading services are exempted from paying property rates.
- b) **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 levied on the first R15 000 of the market value of all residential properties contemplated in terms of section 17(1)(h) of the Act may be supplemented by Council based on affordability, ratepayer profile and the Municipality's predetermined level of support to the indigent.

c) **Public Service Infrastructure**

The first 30% of market value will not be rated in terms of the Act as it is deemed to provide essential services to the community.

d) **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.

e) Exemptions in 10(a) to 10(c) will automatically apply and no application is thus required by the owners of such property.

f) 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), must be submitted together with the application.

g) The Municipality retains the right to refuse the application for exemption if the details supplied in the application were incomplete, incorrect or false.

11 IMPERMISSIBLE RATES

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

- a) 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;
- b) on mineral rights within the meaning of paragraph (b) of the definition for "property" in section 1 of the Act;
- c) 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; and
- d) 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

Categories of properties

- 12.1** 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. Before the start of 2009/2010 financial year the Minister had promulgated a ratio of 1:0.25 (75% rebate on the tariff levied on residential properties) and which will remain till amended by the Minister;
- 12.2** Subject to compliance with sub-paragraph 12.1 and 12.3, the Council grants a rebate as decided by Council resolution, to the owner of an agricultural property as a result of, and taking into account, limited rate-funded services supplied to such property 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;
- 12.3** The rebate referred to in sub-paragraph 12.2 shall be granted to the owner of an agricultural property, subject to the following conditions:
- a) the owner concerned being taxed by South African Revenue Services as a bona fide farmer and his last tax assessment being provided to the municipality as proof of such taxation; or
 - b) the owner concerned applying to the municipality by way of affidavit on the prescribed form for the rebate, failing which no such rebate may be granted and thereafter application at change of ownership.
 - c) the municipality reserving the right to inspect such property before or after granting such rebate and to revoke or amend any decision made prior to such inspection;
 - d) the rebate referred to in sub-paragraph 12.2 being a composite, all-inclusive rebate;
- 12.4** The Council may grant rebates in a percentage determined by it by resolution to the owners of rateable industrial enterprises that promote local, social and economic development in its area of jurisdiction, based on the Council's Local, Social and Economic Development Policy.
- The following criteria will apply in respect of the grant of such rebate:
- 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.

For purposes hereof, an industrial enterprise shall be deemed to be an enterprise which is lawfully conducted from premises situated on land which is zoned for industrial purposes in terms of the municipality's zoning scheme and which ordinarily employs at least 25 or more fulltime employees.

Rebates must be phased out within five years from the date that the rebate was granted for the first time.

Rebates will be granted upon application subject to:

- a) the submission to the municipality of an acceptable business plan issued by the directors of the company indicating how the local, social and economic development objectives of the municipality will be met;

- b) the submission to the municipality of an acceptable continuation plan issued by the directors of the company and certified by the auditors thereof stating that the aforementioned objectives have been met in the first year after the company's establishment and how the company plans to continue to meet the identified objectives;
- c) an assessment by the municipal manager indicating that the company qualifies for the rebate in terms of the Council's requirements; and
- d) a Council resolution.

12.5 The Council may grant rebates in a percentage determined by it by resolution on property tax payable in respect of the under-mentioned properties which have been assigned to the category: Public Benefit Organisation (education and development) contemplated in paragraph 7(u) upon submission of a valid certificate issued by the SA Revenue Service as proof that the organisation which owns and uses such property for the aforementioned purposes, is registered for tax exemption in terms of the Income Tax Act and provided further that the organisation concerned, on a yearly basis on or before 30 September of each year, applies on a form to be prescribed for this purpose, for a rebate on the tax payable for the ensuing financial year:

- a) the provision of education by a "school" as defined in the South African Schools Act, 1996, (Act No. 84 of 1996);
- b) the provision of "higher education" by a "higher education institution" as defined in terms of the Higher Education Act, 1997, (Act No. 101 of 1997);
- c) "adult basic education and training", as defined in the Adult Basic Education and Training Act, 2000, (Act No 52 of 2000), including literacy and numeracy education;
- d) "further education and training" provided by a "public further education and training institution" as defined in the Further Education and Training Act, 1998, (Act No. 98 of 1998);
- e) training for unemployed persons with the purpose of enabling them to obtain employment;
- f) the training or education of persons with a severe physical or mental disability;
- g) the provision of bridging courses to enable educationally disadvantaged persons to enter a higher education institution as envisaged in sub-paragraph (b);
- h) the provision of educare or early childhood development services for pre-school children;
- i) training of persons employed in the national, provincial and local spheres of government, for purposes of capacity building in those spheres of government;
- j) the provision of school buildings or equipment for public schools and educational institutions engaged in public-benefit activities contemplated in sub-paragraphs (a) to (g);
- k) career guidance and counselling services provided to persons for purposes of attending any school or higher education institution as envisaged in sub-paragraphs (a) and (b);
- l) the provision of hostel accommodation to students of a public benefit organisation, institution, board of body;
- m) programmes addressing needs in education provision, learning, teaching, training, curriculum support, governance, whole school development, safety and security at schools, pre-schools or educational institutions as envisaged in sub-paragraphs (a) to (g);
- n) educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy.

12.6 The owners of property which have been assigned in terms of paragraph 7(v) to special geographical areas determined by resolution of the Council, will be granted rebates in accordance with the following criteria:

- a) a 1% rebate due to the fact that the municipality is not responsible for the upkeep of streets;
- b) a 1% rebate due to the fact that the municipality is not required to provide sewage services;
- c) a 1% rebate due to the fact that the municipality is not required to provide electrical energy;

- d) a 5% rebate due to the fact that the municipality is not required to provide water;
- e) a 1% rebate due to the fact that the municipality is not required to provide refuse removal services.

12.7 A rebate in a percentage to be determined by resolution of the Council may also be granted in respect of:

- a) property assigned to the category: state-owned properties (other than public benefit organisations) as contemplated by paragraph 7(l), and
- b) property assigned to the category: national monuments in terms of paragraph 7(s).
- c) 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 10(b) of this by-law.
- d) Farm properties and smallholdings used for residential purposes
- e) The Municipality will treat farm properties and smallholdings that are used for residential purposes as residential properties and grant them all the rebates and reductions applicable to other residential properties in the municipal area.

Farm properties and smallholdings that are used for industrial, commercial and business purposes will be rated on the same basis as other such properties in the municipal area.

13 APPLICATIONS FOR EXEMPTION/REBATES

Where it is, in terms of sections 9 and 10 of this by-law, required that application made for exemption from tax or the granting of a rebate on tax, such applications must be made on a prescribed form which may be obtained from the accounting officer.

The following particulars must be supplied on such prescribed form:

- personal particulars of the applicant;
- postal address of the applicant;
- erf or lot number of the property in respect of which application is made, as depicted in the municipality's valuation records;
- a description of the purpose for which such property is used, and
- any other particulars which the municipality may from time to time deem necessary.

All applications for exemption of tax or a rebate on tax must be considered by the Council.

The Council may refuse approval of an application for exemption or a rebate on tax if:

- the particulars furnished on the application form are incomplete, incorrect or false; and
- the application form is not received on or before the due date determined for such applications.

14 REDUCTIONS

14.1 Categories of property

- a) Reductions as contemplated in section 15 of the Act will be considered on an ad-hoc basis in the event of the following:
 - (i) Partial or total destruction of a property; or
 - (ii) Disasters as defined in the Disaster Management Act, 2002 (Act 57 of 2002).

14.2 Categories of owners

- a) 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 fire damage, flood, lightning, storms and/or other artificial or natural disasters.
- b) The reduction referred to in sub-paragraph 14.2.a will be subject to a certificate issued for this purpose by the municipal valuer.
- c) Any reduction granted in terms of this paragraph shall be authorised by resolution of the Council.
- d) An ad-hoc reduction will not be given for a period in excess of 6 months, unless the Municipality gives further extension on application; and
- e) 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.

15 RATE ADJUSTMENTS

15.1 The municipality will adjust rates annually during the budget process prescribed in terms of the Municipal Finance Management Act, 2003.

15.2 Rate adjustments will be used to finance operating costs of community services.

15.3 Relating to community services, the following annual adjustments will be made:-

- a) all salary and wage adjustments as agreed upon at the Local Government Bargaining Council;
- b) an inflation adjustment for general expenditure, repairs and maintenance and contributions to funds; and
- c) additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.

15.4 Extraordinary expenditure not foreseen during the previous budget period and approved by the Council during a budget review process, will be financed by an adjustment in property rates.

15.5 All adjustments to property rates will be communicated to the local community as part of the budget consultative processes of the municipality.

16 COSTS OF EXEMPTIONS, REBATES, REDUCTIONS, PHASING-IN OF RATES

- 16.1** During the budget process, the accounting officer must inform the Council of all the costs associated with the recommended exemptions, rebates, reductions, phasing-in of rates and grants in lieu of rates.
- 16.2** Provision must be made in the operating budget for:
- a) the full potential income associated with property rates; and
 - b) the full costs associated with exemptions, rebates, reductions, phasing-in of rates and grants in lieu of rates.
- 16.3** All rebates granted in terms of this by-law will be inclusive of any phasing-in discount referred to in the Act.

17 PAYMENT ARRANGEMENTS

The following matters pertaining to the payment of property rates are regulated in the municipality's credit control and debt collection policy and related by-laws:

- the date on which rates become due;
- the last date on which rates which are levied annually as well as monthly, must be paid;
- interest on rates in arrear; and
- actions against defaulters.

18 RECOVERY OF ARREAR RATES FROM TENANTS, OCCUPIERS AND ABSENT OWNERS

- 18.1** If the owner of a property is absent, the municipality may, subject to the **provisos in para. 20.2** recover the amount due for rates on the property in whole or in part from the agent of the owner or other person receiving rent for the property on behalf of the owner.
- 18.2** The amount the municipality will recover from the agent or other person is limited to the amount of the rent received by the agent or that person, less the commission due to that agent or person subject to the Estate Agents Act, 1976 (Act No. 112 of 1976). The amount will only be recovered in this manner after written notice is given to the occupier and if the owner has failed to pay after due notice has been served on such owner.
- 18.3** The agent or other person, must on request by the municipality, furnish it with a written statement specifying all payments received by that agent or person during a period determined by the municipality for rent on the property.
- 18.4** The allocation of payments received, or recovered, from whichever source, will be at the discretion of the municipality.
- 18.5** The supply of basic services may be discontinued, restricted or suspended if rates due become in arrears and the municipality will reinstate such service only if such arrears are paid in full or by the signing of a repayment arrangement.

19 METHOD AND TIME OF PAYMENT

19.1 Residents may apply to pay their rates annually and such a request must be submitted to the Finance Directorate in writing, and must be payable on or before 30th September of each year.

19.2 Monthly Rates instalments must be paid on or before the due date of the monthly accounts.

20 ACCOUNTS TO BE FURNISHED

20.1 A municipality must furnish each person liable for the payment of a rate with a written account specifying:

- a) the annual amount or the amount of the monthly instalment payable;
- b) the date by which the amount is payable;
- c) the basis of calculation of the amount;
- d) the site value or the improved value of the property depending on which value the rate was based;
- e) the particulars of any phasing in of the rate;
- f) in the case of an additional rate the amount and the purpose of the rate

20.2 The fact that a person liable for the payment of a rate has not received an account sent by the municipality to that person's postal address as recorded in the municipality's property register, will not affect that person's liability to pay the amount due nor infringe on the right of the municipality to collect such an amount due.

21 AMOUNT DUE FOR RATES

The rate levied on property will be:

- a) based on the value of the property in accordance with the valuation roll which is currently applicable in the municipality; and
- b) an amount in the rand determined by the municipality on the total value of the property.

22 CORRECT RATING, OMISSIONS OR ERRORS

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 applicable to the property concerned, 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.

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 interest will be calculated at the applicable rate and be payable by the property owner.

23 CONSULTATION PROCESS

- a) 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.
- b) Before the Municipality accepts the rates by-law 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:
 - (i) Display the draft property rates by-law continuously for a period of thirty (30) days at the Municipality's head office, satellite offices and on the website;
 - (ii) Publish a notice in the media stating that the draft property rates by-law was compiled for submission to Council and that such a by-law is available at the different municipal offices and on the website for public inspection;
 - (iii) Property owners and interested persons may obtain a copy of the draft by-law from the municipal office during office hours at a prescribed cost per copy;
 - (iv) Property owners and interested parties are invited to address written suggestions or representations to the Municipality within the period prescribed in the notice; and
 - (v) Council will consider all suggestions and/or representations received during the finalisation of the property rates by-law.

24 ADDITIONAL RATES

- 1) The municipality may:
 - a) define an area within the municipality as a special rating district; and
 - b) levy an additional rate on property in that district for the purpose of funding improvements exclusively in that district.
- 2) Before determining a special rating district, the municipality will consult the communities, residents and ratepayers that will be affected.
- 3) When the municipality determines a special rating district, the municipality will:
 - a) indicate the boundaries of the district;
 - b) indicate the improvements of the effected in the district; and
 - c) establish separate accounting and other record-keeping systems with respect to the improvements to be effected in the district

This does not preclude the municipality from using its resources derived from sources other than an additional rate to fund improvements anywhere in the municipality, including in a special rating district.

25 SAVINGS

In the event of conflict between a provision of this by-law and a corresponding provision in the Act or any regulation promulgated in terms of the Act, the provisions of the Act and such regulation will prevail.

26 SHORT TITLE

This by-law is the Property Rates By-law of the Kouga Municipality.
