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CONTENTS • INHOUD

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>
LOCAL AUTHORITY NOTICE		
38 Local Government: Municipal Property Rates Act (6/2004): Emalaheni Local Municipality: Rates Policy By-law.....	3	1632

LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 38 EMALAHLENI LOCAL MUNICIPALITY

RATES POLICY BY-LAW

To provide for by-laws to give effect to the rates policy of the municipality in terms of section 6(1) of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), and to provide for any matters incidental thereto.

TABLE OF CONTENTS

1.	INTRODUCTION	2
2.	DEFINITIONS	2
3.	STRATEGIC FOCUS	4
4.	KEY PRINCIPLES	5
4.1.	Equity	5
4.2.	Affordability	5
4.3.	Poverty alleviation	6
5.	AMOUNT DUE FOR RATES	6
6.	LIABILITY FOR RATES	6
7.	VALUATION OF RATEABLE PROPERTIES	6
8.	LEVYING OF RATES	7
8.1.	Rates will not be levied on	7
8.2.	Categories	7
8.3.	Relief Mechanisms	8
8.3.1.	Rebates	8
8.3.2.	Exemptions	10
9.	Short Title	11
10.	Date of implementation	11

1. INTRODUCTION

Section 3(1) of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004) (MPRA) and section 62(1) of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), determines that a municipality must adopt and implement a rates policy on the levying of rates on rateable property.

This document sets out the policy of the Emalahleni Local Municipality, for levying rates on rateable property. In applying its rates policy, the Council shall adhere to all requirements of the MPRA and MFMA including any regulations promulgated in terms of these acts.

The Council will as part of each annual operating budget impose a rate in the rand on the market value of all rateable properties as recorded in the municipality's valuation roll or supplementary valuation roll(s). Rateable property shall include any rights registered against such property, with the exception of a mortgage bond. Generally, all land within a Council area is rateable unless it is specifically exempted as set out in section 15 of the MPRA. Such exemptions include cemeteries, amateur sport grounds and properties owned by welfare organizations. A Council must adopt a rating policy which sets out the broad policy framework within the Council rates its area (Section 3), and must annually review and if necessary amend its rates policy (Section 5).

2. DEFINITIONS

In this policy, unless the contents indicates otherwise-

“business” means the activity of buying, selling or trade in commodities or services and includes any office or other accommodation on the same erf, the use of which is incidental of such business, with the exclusion of the business of agriculture, farming, or *inter alia*, any other business consisting of the cultivation of soils, the gathering in of crops or the rearing of livestock or consisting of the propagation and harvesting of fish or other aquatic organism;

“DFA” means the Development Facilitation Act, 1995 (Act No. 67 of 1995);

“government” means owned by an organ of state or the municipality and exclusively used by an organ of the state,

excluding residential use or non urban properties used for residential or agricultural purposes or not in use;

“Illegal use” means any use that is inconsistent with or in contravention of the permitted use of the property;

“Improvement” means any building or structure on or under a property excluding-

- a. A structure constructed solely for the purposes of rendering the property suitable for the erection of any immovable structure thereon; and
- b. Buildings, structures and equipment or machinery referred to in section 46(3) of the MPRA.

“Industrial” means branch of trade or manufacturing, production, assembling or processing of finished or partially finished products from raw materials or fabricated parts, on so large scale that capital and labour are significantly involved. This includes factories as defined in Machinery and Building Work Act No. 22 of 1941, as amended and includes any office or other accommodation on the same erf, the use of which is incidental to the use of such factory;

“Institutional townships” means a township permitted by virtue of legislation other than the Development Facilitation Act, 1995 (Act No. 67 of 1995) and the Town Planning and Townships Ordinance, 1986 (Ord 15 of 1986);

“Mining” means land used for the extraction and processing of minerals;

“Municipal” means owned and exclusively used by the municipality;

“Multiple purposes” means a property that cannot be assigned to a single category due to the different uses of the property. Where one component on average represents 90% or more of the property’s value, such property shall be categorised as though it were used for that purpose only;

“Non-urban land” means land which is not situated in an approved township and is not used for business, government, municipal, mining or industrial purposes;

“Occupant of municipal owned property” means a person in actual occupation of a municipal owned property in the following cases:

- (i) a lessee;
- (ii) a buyer, to whom possession was given, pending registration of ownership; or
- (iii) an unlawful occupant, where the municipality has the intention to enter into a lease or purchase agreement with such a person

“**residential**” means a suite of rooms which form a living unit that is exclusively used for human habitation purposes, or a multiple number of such units on a property, excluding a hotel, commune, boarding and lodging undertaking, hostel and place of instruction;

“**Unregistered proclaimed erven**” means erven as defined by a proclaimed township’s General Plan as approved by the Surveyor General, but not yet transferred;

“**Urban land**” means land which is situated within a proclaimed township or a land development area;

“**Vacant land**” means-

- a. Land where no immovable improvements have been erected; or
- b. The value added by the immovable improvements is less than 10% of the value of the land with no immovable improvements on it.

3. STRATEGIC FOCUS

In determining the rate on property, exemptions, rebates and reductions the Council has considered the following:

- The impact of rates on the community;
- The impact of rates on businesses;
- The current economic climate;
- The integrated development plan (IDP) of the municipality;
- The city **Spatial Development Framework (SDF)** of the municipality; and
- Preventing major shocks to ratepayers when moving from a site rating system to rating on the total value (land and buildings) of a property.

4. KEY PRINCIPLES

4.1. Equity:

The fundamental principle is that taxpayers in similar circumstances will pay similar levels of tax and taxpayers with greater ability to pay greater amounts of tax. In local government the value of a ratepayer's property is the proxy or surrogate for the ability to pay. However, the circumstances of an individual ratepayer are only taken into account in respect to any exemptions, rebates or reductions that may be granted.

Rates are levied on an *ad valorem* (by value) basis that is pro rata to the value of the property.

In the local government context the application of the **equity principle** would suggest that the tax (the rate in the rand) would be the same for all ratepayers in a municipal area, unless some compelling application of other taxation principles changes the incidence of the tax. The main reasons why one ratepayer may pay a different rate than another ratepayer are:

- Different rate levied on different categories;
- Exemptions;
- Rebates; and
- Reductions.

Although these mechanisms were created by the MPRA the use thereof should be justified. The main reason is to retain the historical level of contribution of the various categories of properties to the income from assessment rates and therefore minimize the impact on ratepayers. Income from newly rateable properties will broaden the tax base.

4.2. Affordability:

In considering affordability, the total municipal account and **not only** the rates account will be considered. The Council will endeavour to limit the annual increase in the revenue from property rates to the increase in the consumer price index, except when the approved integrated development plan of the municipality requires a greater increase.

4.3 Poverty alleviation:

The effect of rates on the poor has been taken into account in terms of the indigent policy. All residential properties with a value below a value to be determined during the budget process will be exempted from the payment of assessment rates.

5. AMOUNT DUE FOR RATES

The council shall as part of each annual operating budget determine a rate in the rand for every category.

6. LIABILITY FOR RATES

A rate levied by the municipality on a property must be paid by the owner of the property or the occupant of municipal owned property,

Rates will be levied monthly-

- if an amount due for rates levied is unpaid by the owner of the property, the municipality may recover the amount from a tenant or occupier of the property;
- the amount due for rates may be recovered from the agent of the owner;
- where the rates levied on a particular property have been as a result of a supplementary valuation in terms of section 78(1) of the MPRA, these rates will be payable from dates as contemplated in section 78(4) (a), (b), (c) and (d) of the MPRA;
- Recovery of rates due will be in accordance with municipality's Debt Collection Policy (credit and debt control).

7. VALUATION OF RATEABLE PROPERTIES

- A general valuation of all rateable properties will be undertaken and a valuation roll will be compiled every 4 years.
- Supplementary valuations will be undertaken on an ongoing basis.
- Supplementary valuation rolls will be compiled once a year, including a roll to reflect the changes between the date of valuation and the effective date of the valuation roll.
- Amendments to the valuation roll to reflect changes to the owner, address, extent, description or other prescribed

particulars (section 79), will be done annually and only an electronic copy of the valuation roll will be updated.

8. LEVYING OF RATES

8.1. Rates will not be levied on

The transportation corridors of public service infrastructure.

8.2 Categories

The category will be determined by the **actual use** of the property. The municipal valuer will be responsible for the categorizing of properties and the maintenance thereof as any change in the use of a property may result in a change to the category.

The categories that are determined in terms of section 8(1) of the MPRA are:

1. Residential
2. Municipal
3. Public service infrastructure (PSI)
4. Government
5. Vacant urban land
6. Non-urban land
7. Industrial
8. Business
9. Illegal use
10. Unregistered proclaimed erven
11. Institutional townships
12. Public worship and official residence referred to in section 17(1)(i) of the Act
13. Mining
14. Multiple purposes

In the event that a property cannot be categorized such property will be categorized as "Business"

8.3 Relief Mechanisms

The Council grants exemptions, rebates and reductions in recognition of the following factors:

- The need to accommodate indigents and less affluent pensioners
- The services provided to the community by public service organizations
- The value of agricultural activities to the local economy
- The need to preserve the cultural heritage of the local community

8.3.1 Rebates

When a specific category of owners of properties or the owner of a specific category of properties qualify for more than one rebate at a given time, the sum of the rebates will be used to calculate the total rebate.

8.3.1.1 Rebate for the area demarcated as an urban development zone according to Government Gazette No. 28795 of 12 May 2006.

The rebate will be applicable to properties on the following conditions:

- The property must be located within the demarcated area and will apply to both new and existing businesses;
- New buildings or existing buildings where the value of the renovation will determine the rebate; and
- The rebate will be adjusted for Black Economic Empowerment (BEE), local economic development, creation of new jobs and foreign direct investment.

The rebate will be calculated as follows:

- 8.3.1.1.1 A basic rebate of 25% (effective on date of issuing of occupation certificate), decreasing by 20% per annum;
- 8.3.1.1.2 Plus an adjustment based on the replacement value of the improvements:
 - 8.3.1.1.2.1 5% where the replacement value is more than double the replacement value of the replacement value of the existing buildings; or
 - 8.3.1.1.2.2 2.5% where the replacement value is more than 50% of the replacement value of the replacement value of the existing buildings;

- 8.3.1.1.3 Plus an adjustment based on BEE principles which must be confirmed annually by submission of the relevant proof:
- 8.3.1.1.3.1 5% if the company responsible for the improvements is 100% BEE owned;
- 8.3.1.1.3.2 4% if the company responsible for the improvements is 80% to 99% BEE owned;
- 8.3.1.1.3.3 3% if the company responsible for the improvements is 60% to 79% BEE owned;
- 8.3.1.1.3.4 2% if the company responsible for the improvements is 40% to 59% BEE owned; or
- 8.3.1.1.3.5 1% if the company responsible for the improvements is 20% to 39% BEE owned;
- 8.3.1.1.4 Plus an adjustment for the stimulation of local business which must be confirmed annually by the submission of relevant proof: or
- 8.3.1.1.4.1 5% if the improvements is occupied by an entity that is owned and managed by local residents of Emalahleni; or
- 8.3.1.1.4.2 2.5% if the improvements is occupied by an entity that is more than 50% owned and managed by local residents of Emalahleni;
- 8.3.1.1.5 Plus 5% if new jobs are created or the number of permanent positions is doubled; provided that more than 10 new jobs must be created; or

This rebate will be applicable to a specific property for a period of 5 years and will be phased out by reducing the rebate annually by 20%.

Projects funded by Foreign Direct Investment will benefit from the rebate for a period of 10 years and the rebate will be phased out by reducing it annually by 10%.

8.3.1.2 Rebate for new townships

The rebate will be applicable to properties, on which a new township is established, on the following conditions:

- The completion of services certificate has been issued by the municipality in terms of Section 82(1)(b)(ii) (cc) of the Town planning and Townships Ordinance, 1986; or
- The provisions of section 38 of the Development Facilitation Act, 1995 has been complied with.

A rebate of 40% will be granted for a period of 12 months.

8.3.2 Exemptions

The Municipality grants an exemption from the payment of rates in respect of the following:

- 8.3.2.1 rateable property registered in the name of a welfare organization registered in terms of the National Welfare Act, 1978 (Act 100 of 1987);
- 8.3.2.2 hospitals, clinics and institutions for mentally ill persons which are not operated with the intention to make profit;
- 8.3.2.3 rateable property registered in the name of public benefit organization performing specified public benefit activities;
- 8.3.2.4 cemeteries and crematoriums which are registered in the names of private persons and which are used exclusively for burials and cremations, as the case may be;
- 8.3.2.5 museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and which are open to public, whether admission is charged or not;
- 8.3.2.6 national monuments including ancillary business activities at national monuments;
- 8.3.2.7 rateable property registered in the name of a trustee or trustees or any organization which is being maintained for the welfare of war veterans as defined in section 1 of Social Aid Act (House of Assembly), 1989 (Act No. 37 1989), and their families;
- 8.3.2.8 sports grounds used for the purposes of amateur sport and any social activities which are connected with such sport;
- 8.3.2.9 rateable property registered in the name of the Boy Scouts, Girl Guides, Sea Scouts, Voortrekkers or any organization which is in the opinion of the municipality, similar or any rateable property let by a municipality to any such organization;
- 8.3.2.10 rateable property registered in the name of a declared institution as defined in section 1 of the Cultural Institutions Act, 1969 (Act No. 29 of 1969), or the Cultural Institutions Act (House of Assembly)
- 8.3.2.11 Public schools;

8.3.2.12 Persons who have reached the age of 60 years or more during the financial year, and physically or mentally disabled persons who can substantiate receipt of a social pension, or persons certified by the Medical Officer of Health as physically or mentally handicapped, subject to the following conditions:

- The joint income of the applicant and his/her spouse, if any for the year ended 30 June shall not exceed R90,000 or such higher amount determined during the budget;
- The rateable property concerned must be occupied only by the applicant and his/her spouse, if any and by dependants without income, or by people because of specific circumstances in the Chief Financial Officer's opinion;
- There must not be more than two dwelling-units on the rateable property concerned;
- Application for remission for the financial year must be received prior to 30 September on a form (which will be made available for this purpose by the Chief Financial Officer), and this information must be substantiated by an affidavit by the applicant;
- The applicant must submit proof of his/her age and identity and, in the case of a physically handicapped person, also proof of the receipt of a social pension or, if not in receipt of such pension, proof by a Medical Officer of Health;
- The consumer's current account is paid in full or an arrangement has been made to pay off amounts in arrear; and
- The property is categorized as residential.

These exemptions will be granted after an application has been considered by the Chief Financial Officer of the Municipality.

9 SHORT TITLE

These By-laws are called the Rates Policy By-Laws

10 DATE OF IMPLEMENTATION

1 July, 2009.