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KWAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SAKWAZULU-NATALI

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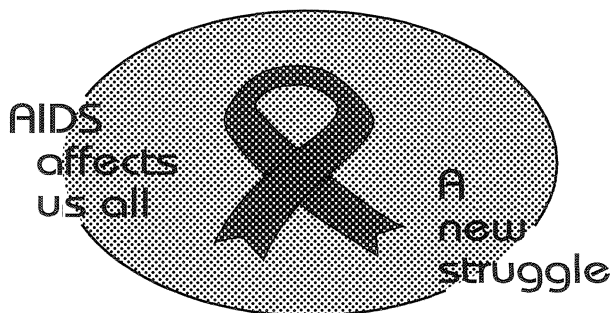
**Vol. 8**

**PIETERMARITZBURG,**

28 NOVEMBER 2014  
28 KULWEZI 2014

**No. 1275**

**We all have the power to prevent AIDS**



**AIDS  
HELPLINE**

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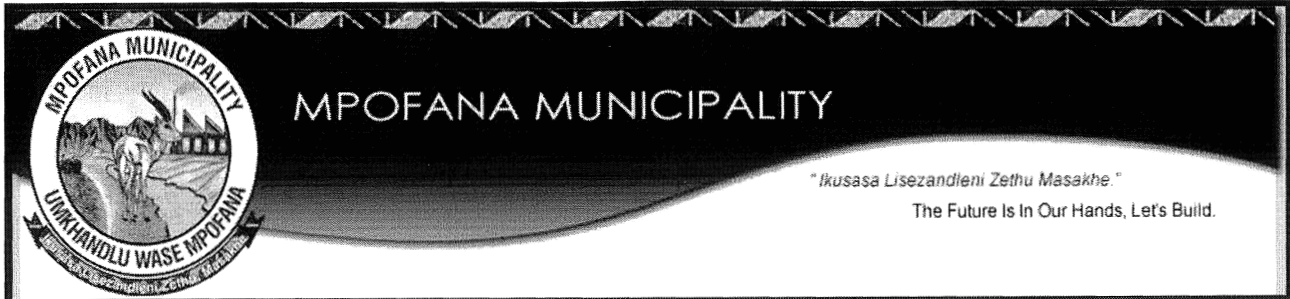
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**MUNICIPAL NOTICES**

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No. 159

28 November 2014



**MUNICIPAL PROPERTY RATES**  
**POLICY**  
**2014/2015**

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## INTERPRETATION

### Preamble

The Mpofana Municipal Council has resolved to implement the Municipal Property Rates Policy, (Act No. 6 of 2004) [the MPRA] with effect from 01 July 2014. Section 3 of the MPRA requires the Municipality to adopt a policy consistent with the MPRA on the levying of rates on rateable property in the Municipality.

This Rates Policy for Mpofana Municipality determines how properties are rated and must be read in conjunction with the MPRA and ancillary legislation.

### DEFINITIONS

Any words and phrases referred to in this policy shall have the same meaning and interpretation assigned in terms of the Municipal Property Rates Act 6 of 2004 ("the Act") and for this purpose lists hereunder the definitions used in the Act.

In this Act, unless the context indicates otherwise –

"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 property" means property envisaged in section 8(2)(d)(i), (e) and (f)(i) of the Act: "agricultural purpose", in relation to the use of a property, excludes the use of a property for the purpose of Eco-tourism or for the trading in or hunting of game;

"Arrear rates" means any amount due for payment of rates which remains unpaid after the due date for payment

"annually" means once every financial year;

"appeal board" means a valuation appeal board established in terms of section 56;

"assistant municipal valuer" means a person designated as an assistant municipal valuer in terms of section 35 (1) or (2);

"Bed & Breakfast" means any residential or non commercial property used as a bed and breakfast / hospitality establishment

"category" –

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

"data-collector" means a person designated as a data-collector in terms of section 36;

"date of valuation" means the date determined by a municipality in terms of section 31 (1);

"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 C municipality;

**“effective date”** –

(a) in relation to a valuation roll, means the date on which the valuation roll takes effect in terms of section 32 (1); or

(b) in relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of section 78 (2) (b);

**“exclusion”**, in relation to a municipality’s rating power, means a restriction of that power as provided for in section 17;

**“exemption”**, in relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15;

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

**“Income Tax Act”** means the Income Tax Act, 1962 (Act No. 58 of 1962);

**“land reform beneficiary”**, in relation to a property, means a person who – (a) acquired the property through –

(i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or

(ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

(b) holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or

(c) holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to section 25 (6) and (7) of the Constitution be enacted after this Act has taken effect;

**“land tenure right”** means an old order right or a new order right as defined in section 1 of the Communal Land Rights Act, 2004;

**“local community”**, in relation to a municipality – (a) means that body of persons comprising – (i) the residents of the municipality;

(ii) the ratepayers of the municipality;

(iii) any civic organizations and non-governmental, private sector or labour organizations 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;

**“MEC for local government”** means the member of the Executive Council of a province who is responsible for local government in that province;

**“metropolitan municipality”** means a municipality that has exclusive executive and legislative authority in its area, and which is described in section 155 (1) of the Constitution as a category A municipality;

**“Minister”** means the Cabinet member responsible for local government;

**“multiple purposes”**, in relation to a property, means the use of a property for more than one purpose;

**“municipal council” or “council”** means a municipal council referred to in section 18 of the Municipal Structures Act;

**“Municipal Finance Management Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 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 in terms of section 82 of the Municipal Structures Act;

**“Municipal Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

**“municipal valuer” or “valuer of a municipality”** means a person designated as a municipal valuer in terms of section 33 (1);

**“newly rateable property”** means any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding –

(a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and

(b) a property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified;

**“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;

**“organ of state”** means an organ of state as defined in section 239 of the Constitution;

**“owner” –**

(a) in relation to a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;

- (b) in relation to a right referred to 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 curatorship; (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
  - (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

"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 (b) any legislation applicable to any specific property or properties; or (c) any alleviation of any such restrictions;

"person" includes an organ of state;

"prescribe" means prescribe by regulation in terms of section 83;

"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;

"property register" means a register of properties referred to in section 23;

"protected area" means an area that is or has to be listed in the register referred to in section 10 of the Protected Areas Act;

"Protected Areas Act" means the National Environmental Management: Protected Areas Act, 2003;



“**public benefit organization property**” means property owned by public benefit organizations 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.

“**publicly controlled**” means owned by or otherwise under the control of an organ of state, including—

- (a) a public entity listed in the Public Finance Management Act, 1999 (Act No. 1 of 1999); (b) a municipality; or
- (c) a municipal entity as defined in the Municipal Systems Act; NO 32 of 2000.

“**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;
- (d) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (e) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (f) railway lines forming part of a national railway system;
- (g) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (h) runways or aprons at national or provincial airports;
- (i) 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;
- (j) any other publicly controlled infrastructure as may be prescribed; or
- (k) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);

“**rate**” means a municipal rate on property envisaged in section 229 (1) (a) of the Constitution, 1996

“**rateable property**” means property on which a municipality may in terms of section 2 levy a rate, excluding property fully excluded from the levying of rates in terms of section 17;

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

“**reduction**”, in relation to a rate payable on a property, means the lowering in terms of section 15 of the amount for which the property was valued and the rating of the property at that lower amount;

“**register**” – (a) means to record in a register in terms of—

- (i) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
- (ii) the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and

(b) includes any other formal act in terms of any other legislation to record—

- (i) a right to use land for or in connection with mining purposes; or
- (ii) a land tenure right;

“residential property” means a property included in a valuation roll in terms of section 48 (2) (b) as residential;

“Sectional Titles Act” means the Sectional Titles Act, 1986 (Act No. 95 of 1986);

“sectional title scheme” means a scheme defined in section 1 of the Sectional Titles Act;

“sectional title unit” means a unit defined in section 1 of the Sectional Titles Act;

“specified public benefit activity” means an 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; 1962 (Act No 55 of 1962).

“state trust land” means land owned by the state –

(a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;

(b) over which land tenure rights were registered or granted; or

(c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

“this Act” includes regulations made in terms of section 83 of the Local Government Municipal Property Rates Act No 6 of 2004. (a) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

#### Other Definitions

“agricultural property” means a property used for agricultural purposes and shown as such in the valuation roll excluding a property used for the purpose of Eco-tourism or for the trading in or hunting of game.

“arrear rates” means any rates which remain unpaid after the due date for payment.

“child” means 18 years or younger

“child” headed household” means any child of the owner of the property who is responsible for the care of siblings or parents

“disabled” means a person who qualifies to receive relief in terms of the Social Services Act, 1992 (Act No. 59 of 1992) or has been certified as disabled by a medical practitioner;

“indigent owner” means an owner of property who is in permanent occupation of the property and in registered as an indigent in terms of the municipality’s indigent policy.;

“MPRA” means the Municipal Property Rates Act, 6 of 2004 (Act. No. 6 of 2004)

“the Municipality” means MPOFANA Municipality;

“owners of property in an area affected by a disaster” means owners of property situated within an area affected by:

(a) a disaster within the meaning of the Disaster Management Act 57 of 2002; (b) any other serious adverse social or economic conditions;

Adopted by the **Mpofana Council** on the 30<sup>th</sup> day of June 2014

**Res No:** 31/6/2014

“pensioner” means

- (a) a person 60 years or older; or
- (b) a person who has been medically boarded

“primary property” means the property at which the owner permanently resides

“residential property” means any property used for living purposes which forms a living unit that is used as a dwelling for human habitation purposes, or a multiple number of such units but excludes:  
a hotel, or

an accommodation establishment including a bed and breakfast; or a dwelling where more than one third is used for other purposes

“right of Extension” means a right of extension registered in terms of a Sectional Title Scheme

“Sectional Title Scheme” means any scheme in terms of the Sectional Titles Act

“non-profit organization” means any organization which is registered in terms of the Non-profit Organizations Act.

“unemployed” means any person who qualified to register in terms of the municipality’s indigent policy;

## 1. POWER TO LEVY RATES

The Municipality may levy rates on all rateable property within its area of jurisdiction and may grant rates relief in terms of this policy or in terms of national framework prescribed under the Act. In levying rates the Municipality is not obliged to levy rate on properties of which it is the owner, or public service infrastructure owned by it or on properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racially discriminating laws or practice.

## 2. EXERCISE OF POWER IN TERMS OF LEGISLATION

A Municipality must exercise its power to levy rate on property subject to: (a) Section 229 and other applicable provisions of the Constitution

(b) The provisions of the MPRA

(c) Its Rates Policy and Rates By-laws

## 3. IMPLEMENTATION OF AND EFFECTIVE DATE

- 3.1. The Rates Policy shall take effect from 01 July 2014 being the effective date of the first valuation roll prepared by the municipality in terms of the MPRA and must accompany the municipality's budget for the financial year.
- 3.2. The Rates Policy will be reviewed annually, and if necessary amended by the Municipality such amendments to be effected in conjunction with the Municipality's annual budget in terms of Sections 22 and 23 of the Municipal Financial Management Act.
- 3.3. The Municipality has adopted by-laws to give effect to the implementation of its Rates policy and such by-laws must be read in conjunction with this policy. The rates by-laws may differentiate between:
  - 3.3.1. categories of properties; and
  - 3.3.2. categories of owners of properties.
- 3.4. The rates by-laws adopted in terms of Item 1.3 may be reviewed annually, and if necessary be amended by the Municipality, in conjunction and in accordance with the Rates Policy.

## 4. THE PURPOSE OF THIS POLICY

- 4.1 Ensure compliance with the provisions section 3 of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004);
- 4.2 determine the methodology and prescribe procedures for the implementation of the Act;
- 4.3 determine criteria to be applied for the levying of differential rates for different categories of properties;
- 4.4 determine or provide criteria for the determination of categories of properties and categories of owners of properties;
- 4.5 determine the principles and criteria to be applied for granting relief from payment of rates;
- 4.6 determine how the municipality's powers must be exercised in relation to levying differential rating
- 4.7 determine how the municipality's powers must be exercised in relation to multipurpose properties;

## **5. EQUITABLE TREATMENT OF RATEPAYERS**

Mpofana Municipality is committed to treating all ratepayers on an equitable basis. "Equitable" does not necessarily mean "equal" treatment of ratepayers. The Municipality may adopt measures to ensure equitable and fair treatment of ratepayers. Any differentiation in levying rates must not constitute unfair discrimination.

## **THE VALUATION ROLL AND RATING**

### **6. EFFECTIVE DATE OF VALUATION ROLL**

The Valuation Roll takes effect from July 2012 and may remain valid for 4 subsequent financial years, as the Municipality may decide, up to the maximum period determined by the Act. It is recorded that the maximum period is currently 4 (four) financial years.

### **7. DATE OF VALUATION**

The Date of Valuation is 01 January 2012

### **8. GENERAL BASIS OF VALUATION**

8.1 All properties are valued at market value in terms of the provisions of section 46 of the MPRA.

8.2 In assessing the market value, the Municipal Valuer may take cognizance of any guidelines or recommendations issued by the South African Institute for the Valuers, the KwaZulu-Natal Department of Local Government and Traditional Affairs and/or the National Department of Local Government or any other recognized government or Institution

### **9. RATE RANDAGE**

The Municipality will, by resolution, as part of each annual budget process, determine a rate as a cent in the rand, based on the property value appearing in the valuation roll applicable to that financial year.

### **10. DIFFERENTIAL RATING**

10.1 Differential rating is the levying of different rates for different categories of properties.

The Municipality may levy differential rates for different categories of rateable property properties as identified in this policy and the rates applicable to the different categories of properties are as resolved by the council and published in the Government Gazette.

### **11. DECISIONS REGARDING RATING**

11.1 In implementing the MPRA, the Municipality may apply the following principles with regard to rating:

11.1.1 that the category of property will be determined based on the actual use of the property. A change of use may result in a change in the category of property.

11.1.2 that multiple purpose properties will be assigned to a category based on the dominant use of the property.

11.1.3 that it may rate public service infrastructure.

11.1.4 that in terms of the act, to regard the following persons as the owner of a property in the following case

- 11.1.4.1 A trustee, in the case of a property in a trust excluding state trust land;
  - 11.1.4.2 An executor or administrator, in the case of property in a deceased estate;
  - 11.1.4.3 A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
  - 11.1.4.4 A judicial manager, in the case of property in the estate of a person under judicial management
  - 11.1.4.5 A curator, in the case of a property in the estate of a person under curatorship
  - 11.1.4.6 Persons in whose name the following personal rights are registered:
  - 11.1.4.7 Holders of a right of extension registered in terms of a section title scheme;
  - 11.1.4.8 A lessee, in the case of property that is registered in the name of a municipality and is leased by it who shall be deemed to be the owner from the date of commencement of the lease and be rated;
  - 11.1.4.9A buyer, in the case of property that was sold by the municipality who shall be deemed to be the owner from the date of disposal pending registration of ownership in the name of a buyer and shall be rated.
- 11.2 That it may rate a Real Right of Extension.

## 12. CATEGORIES OF PROPERTIES AND VALUATION

- 12.1 Every property will be assigned to a category in the valuation roll, and will be valued and rated according to that category.
- 12.2 In determining the categories of properties based on actual use, the Municipality has determined the following categories:
- 12.2.1 Properties used for agricultural purposes
  - 12.2.2 Commercial and business
  - 12.2.3 Industrial
  - 12.2.4 Residential
  - 12.2.5 Municipal use
  - 12.2.6 Public Service Infrastructure
  - 12.2.7 State and Trust Land
  - 12.2.8 Properties on which national monuments are proclaimed and
  - 12.2.9 Properties used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act
  - 12.2.10 Properties used for multiple purposes
  - 12.2.11 Properties used for crèche purposes
  - 12.2.12 Properties used for clinic purposes
  - 12.2.13 Properties used for library purposes
  - 12.2.14 Properties used for post office purposes
  - 12.2.15 Properties used for police station purposes
  - 12.2.16 Properties used for magistrates courts
  - 12.2.17 Properties used for education purposes
  - 12.2.18 Properties used for place of worship purposes
  - 12.2.19 Properties used for sport facility purposes
  - 12.2.20 Properties used for cemeteries
  - 12.2.21 Properties used for racetrack
  - 12.2.22 Properties used for quarry
  - 12.2.23 Properties used for zoo and/or game reserve
  - 12.2.24 Sectional Title properties
  - 12.2.25 A Real Right of Extension registered in terms of a Sectional Titles Scheme

- 12.2.26 Bed and Breakfast establishments
- 12.2.27 Rural Communal Land
- 12.2.28 Properties used for Nature Reserve/ or National Park

12.3 In determining whether a property is used for agricultural purposes, cognizance shall be taken of the following:

- 12.3.1 Whether the usage is that of a bone fide farm by way of a business or commercial farming
- 12.3.2 Whether the dominant use excludes any of the categories listed in 12.2.1 to 12.2.28 above.
- 12.3.3 Whether the property has been zoned for agricultural usage;
- 12.3.4 The usage reflected on the aerial photography of the property, the adjacent properties and properties in the immediate proximity;
- 12.3.5 Whether the property is situated outside of a township and/or is regarded as being a "rural" property
- 12.3.6 The access to the property;
- 12.3.7 Whether the property is subject to the provisions of the Subdivision of Agricultural Land Act 1970 (Act No. 79 of 1970)

### 13. MULTIPLE PURPOSE PROPERTIES

13.1 Properties used for multiple purposes will be categorized according to the dominant usage.

13.2 In considering what constitutes the dominant use, the Municipal Valuer will assess the primary use to which the property is put and determine the category of use based on this primary usage. In assessing what constitutes the primary/dominant usage the Municipal Valuer shall:

- 13.2.1 establish the largest measured extent under the primary usage (land and/or buildings) and assign that usage to the applicable category in clause 12 above; or
  - 13.2.2 determine the highest gross rental of usage (land and/or buildings) and assign that usage to the applicable category in clause 12 above;
- as the case may be:

13.3 Once the multiple purpose property has been assigned to its category of usage:

- 13.3.1 the value will be assessed based on that usage; and
- 13.3.2 The rate and/or applicable to that category of property will be applied for rating purposes;

13.4 The provisions of sub paragraphs 12.3.1- 12.3.2 shall not apply to Rural Communal and State Trust land.

13.5 In determining the category into which vacant land shall fall, the following criteria shall be applied:

- 13.5.1 If the property is being used, it shall be assigned to the category for which it is being used;
- 13.5.2 If the property is not being used, and it is zoned, it shall be assigned to the category which most closely matches the zoned usage;
- 13.5.3 Where the property is not zoned it shall be assigned to the category based on its highest and best potential as determined by the Municipal Valuer.

13.6 In the case where the dominant use is exempt from the payment of rates, and the remainder of the property is used for another purpose/s, the remainder will be assessed on that usage/s and categorized as a multiple use.

13.7 In the case of State and Trust Land and Rural Communal Land the different usage will be assessed pro rata and assigned to a category.

### 14. IMPERMISSIBLE RATES IN TERMS OF THE ACT

- 14.1 It is recorded that the Municipality may not, in terms of section 17 of the Act levy a rate on-
- 14.1.1 the first 15% of the market value of residential property and the first 30% of the market value of public service infrastructure;
- 14.1.2 those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004, which are not developed or used for commercial, business, agricultural or residential purposes. The exclusion from rates of such a property lapses if the declaration of that property as a special nature reserve, national park, nature reserve or national botanical garden, or as part of such a reserve, park or botanical garden, is withdrawn in terms of the applicable legislation and as provided in the MPRA.
- 14.1.3 mineral rights within the meaning of the definition of "property" in section 14.1.4 a property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses ten years from the date on which such beneficiary's title was registered in the office of the Registrar of Deeds
- 14.1.5 on a property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship.

#### 15. NEWLY RATED PROPERTY

- 15.1 Any property which was not previously rated will be phased in subject to the conditions that:
- 15.1.1 property registered in the name of a land reform beneficiary will be phased in after the exclusion period in section 17(1) (g) of the Act;
- 15.1.2 property owned by Public Benefit Organizations will be phased in over a period of four financial years.

15.2 The phasing in period shall be as set out in the attached table.

##### Applicable rates for properties to be phased in over four years

Year	Percentage Rates Payable
First	Zero%
Second	25%
Third	50%
Fourth	75%

##### Applicable rates for properties to be phased in over three years

Year	Percentage Rates Payable
First	25%
Second	50%
Third	75%

#### 16. MUNICIPAL OWNED PROPERTY

Property owned by the municipality will not be rated except where the Municipal property has been leased or sold as provided for in 6.1.9.12 and 6.1.9.13 in which event the lessee or purchaser shall be liable for the payment of the rates.



**17. RATESRELIEF**

17.1 The municipality has considered the need to grant relief to certain ratepayers (including the poor) with a view to providing for appropriate measures to alleviate the impact of the rates burden on them;

17.2 The municipality may only grant rates relief in the form of :

17.2.1 a rebate of the rates; and/or

17.2.2 a reduction in the property value on which rates will be raised;

17.2.3 an exemption from rating

17.3 Rates relief may only be granted to:

17.3.1 a category of property, or

17.3.2 a category of owner of property.

17.3.3 and the municipality may not grant relief to the owners of properties on an individual basis.

**18. CATEGORIESOFOWNERSENTITLEDTORELIEF**

18.1 The municipality has identified the following *categories of owners* below who may benefit from rates relief :

18.1.1 indigent owners

18.1.2 a person who has been medically boarded;

18.1.3 pensioners;

18.1.4 unemployed

18.1.5 owners of property situated within an area affected by:

18.1.5.1 a disaster within the meaning of the Disaster Management Act 57 of 2002;

18.1.5.2 any other serious adverse social or economic conditions;

18.1.6 owners of residential properties below a market value determined by the Municipality;

18.1.7 Public benefit organizations who conduct the following specified public benefit activities:

18.1.7.1 welfare and humanitarian; or

18.1.7.2 health care; or

18.1.7.3 education; and

18.1.8 are registered in terms of the Income Tax Act for tax reductions because of the specified public benefit activities

18.1.9 non-profit organizations registered in terms of the Non-Profit Organizations Act whose activities are that of a public and charitable nature as may be specified by the Municipality from time to time;

18.1.10 minor children who are the head of a household as defined in child headed household;

18.1.11 disabled persons;

18.1.12 any other category as may be determined by the Municipality by resolution.

**19. EXEMPTIONS****19.1 EXEMPTIONS GRANTED TO CATEGORIES OF PROPERTIES**

The Municipality may exempt in total, from payment of rates the following categories of properties:

19.1.1 Property registered in the name of and used primarily as a place of public worship by a religious community including one official residence also registered in the name of that community, which is occupied by an office bearer who officiates at services at that place of public worship.

19.1.2 Property which may be registered in the name of the Ingonyama Trust Board, the State or a Trust, which is used primarily as a place of public worship by a religious community including an official residence, which is occupied by an office bearer who officiates at services at that place of public worship.

## **20. EXEMPTIONS GRANTED TO CATEGORIES OF OWNERS OF PROPERTIES**

The Municipality may exempt from the payment of rates any of the categories of owners of properties identified in clause 18 above. The provision of clause 24 below shall apply to the grant of exemptions in terms of this clause.

## **21. REDUCTIONS**

21.1 It is recorded that the municipality is precluded from levying rates on the following categories determined by the municipality:

- 21.1.1 the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality for residential properties in terms of section 17(1)(h) of the Act;
- 21.1.2 the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality for multi purposes, relating to that portion used for residential purposes only;
- 21.1.3 On the first 30% of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality for Public Service Infrastructure in terms of section 17(1)(a) of the Act

21.2 The municipality may in its discretion further reduce the value upon which rates will be levied by an amount determined by the Municipality by resolution of the council at its annual budget in respect of residential properties.

## **22. RATES REBATES**

### **REBATES FOR CATEGORIES OF PROPERTIES**

22.1 The municipal Council may at its annual budget resolve to grant rebates to any of the categories of properties as determined in this policy.

22.2 The Municipality may grant a lifeline benefit rebate on residential properties up to a value determined by a resolution of Council at its annual budget taking cognizance of the principle that such rebates shall address the indigent.

22.3 The provisions for clause 24 below shall apply to the grants of any rebates in terms of clause of 22.2 The Municipality may grant an additional rebate to properties used for hospitality / tourism as bed and breakfast establishment in addition to any rebates granted to the category of properties provided that

- 22.4.1 the hospitality established as licensed as required in terms of any legislation and
- 22.4.2 the bed and breakfast establishment is registered with the Tourism authority
- 22.4.3 the relief will only be granted on application upon proof of the requirements determined above and any other requirements set by the Municipality.

## **23. REBATES FOR CATEGORIES OF OWNERS OF PROPERTIES**

23.1 The municipality may by resolution of the council at its annual budget, grant rebates in respect of rates payable on the *primary* residence, to the categories of owners of properties identified in clause 18 Above, in addition to the rebate granted to the category of properties in 22 above:-

23.2 In order to qualify for the rebates in terms of the above the applicant must be a

23.2.1 the registered owner of the property and;

23.2.2 be the sole owner of the primary property or owned jointly with his/her spouse;

23.2.3 be living permanently on the property;

23.3 The provision for clause below shall apply to the rebates in terms of clause

#### 24. APPLICATION FOR RELIEF

24.1 Relief in terms of clauses 21.2, 22.2, and 23.1 shall only be granted on an annual basis upon written application on the prescribed form as follows:

24.1.1 by lodging an application in the prescribed manner with the Municipal Manager on or before the date specified by the Municipality;

24.1.2 in the case of public benefit organizations upon proof of:

24.1.2.1 registration in terms of the requirements of the Income Tax Act; and

24.1.2.2 an affidavit signed by the chairperson or secretary of the public benefit organization or nonprofit organization before a Commissioner of Oaths that the property is used primarily for the specified public benefit activities and purposes of the said public benefit organization;

24.1.3 in the case of a religious community upon proof of submission:

24.1.3.1 that the property is used primarily as a place of public worship; and

24.1.3.2 an affidavit signed by the person officiating at the place of worship that the property occupied as the residence is occupied by the office bearer who officiates at services at that place of worship;

24.1.4 In the case of properties owned by non profit organizations upon proof of submission

24.1.4.1 The non profit organization is registered as such in terms of the Non profit Organizations Act as amended,

24.1.4.2 an affidavit signed by the chairman or secretary of the non profit organization before a commissioner of Oaths that the property is used primarily for the aims and objective of the said Non Profit Organization, no private pecuniary profit is made from the property, that no rent is received by the applicant and the property is not used for any other purpose

24.1.5 In the case of natural person upon proof of the following:

24.1.6 that the property is registered in the sole name of the applicant or is owned jointly with her/her spouse by producing a copy of a title deed issued by the Deeds Registry within the last 2 months;

24.1.7 an affidavit signed by the applicant that:

24.1.7.1 he/she is living permanently on the property

24.1.7.2 that no rent is received by the applicant and the property is not used for any other purpose.

24.2 The Municipality reserves the right to specify such other requirements as the Municipal Manager deems necessary from time to time.

## 25. WITHDRAWAL OF RELIEF

- 25.1 The entitlement to rates relief terminates immediately if :-
- 25.1.1 the applicant no longer qualifies for the relief; and/or
  - 25.1.2 the provisions and requirements of this policy are contravened in any manner, and/or the category of property or category of owner of property no longer meet/s the specifications required for such rebate, reduction of exemption; and/or.
  - 25.1.3 the applicant has omitted to disclose any material information in the application, and/or has misrepresented any disclosure the application; and/or
  - 25.1.4. that no rent is received by the applicant; and/or.
- 25.2. the property is not used for any other purpose.
- 25.3 In the event that rates relief has been extended after the rates relief has terminated as provided for in 25.1 above, the owner will be liable to pay the rates due from the date of termination of the relief and such rates will be deemed to be arrear rates.
- 25.4 The onus rests with the owner or applicant to notify the municipality in writing immediately of its change of status or that it no longer qualifies for the relief.

## PAYMENT AND COLLECTION OF RATES

### 26. LIABILITY FOR PAYMENT OF RATES

- 26.1 The following persons shall be liable for the payment of rates levied by the Municipality:
- 26.1.1 the owner of a property;
  - 26.1.2 joint owners of a property, who shall be liable jointly and severally;
  - 26.1.3 the owner of a sectional title unit. In this regard joint owners of a sectional title property shall be liable jointly and severally;
  - 26.1.4 The holder of Right of Extension in a Sectional Title Scheme
  - 26.1.5 in relation to agricultural properties
    - 26.1.5.1 any one joint owner of the agricultural property for all the rates levied on the agricultural property; or
    - 26.1.5.2 each individual joint owner for that portion of rates levied on the joint owner's undivided share in the agricultural property, whichever option the Municipality may choose in relation to agricultural properties
  - 26.1.6 Any owner identified in clause 3 above

### 27. PAYMENT OF RATES ON SECTIONAL TITLE PROPERTIES

- 27.1 A municipality may not recover the rate on a sectional title unit, or any part of such rate, from the body corporate, controlling a sectional title scheme, except when the body corporate is the owner of any specific sectional title unit.
- 27.2 A rate levied by the Municipality on a Sectional Title unit is payable by the owner of the unit controlling the Sectional Title Scheme with effect from the 1 July 2009. The owners of the units shall be liable jointly and severably for any unpaid rates accrued prior to 1 July 2009.
- 27.3 A body corporate controlling a sectional title scheme may not apportion and collect rates from the owners of the sectional title units in the scheme.

## 28. NOTICE TO OWNERS

28.1 The Municipality will furnish each person liable for the payment of rates with a written account which shall contain the following information:

- (a) The amount due for rates payable;
- (b) The date on or before which the amount is payable; (c) How the amount was calculated;
- (d) The market value of the property;
- (e) If the property is subject to any compulsory phasing in discount in terms of Section 21 of the Act, the amount of the discount;
- (f) If the property is subject to any additional rate in terms of Section 22 of the Act, the amount due for additional rates.

28.2 Any person liable for the payment of a rate in respect of rateable property shall notify the Municipality of any address with the Republic to which accounts and notices in respect of such property shall be sent.

28.3 Any account and/or notice which the Municipality is required to send or give in terms of the Municipal Systems Act and the regulation thereto shall be deemed to have been properly given if it has been sent by pre-paid post:

- (i) to the address of the property shown in the valuation roll; (ii) to an address specified by the person in terms;
- (ii) To an address which appears to be the residential or business address of the person liable for the payment of the rate, according to the records of the Municipality, and which method of posting shall be utilized if subparagraphs (i) and (ii) do not apply or if any notice posted in terms of the said subparagraphs has been returned and undelivered.
- (iii) If it has in fact come to the notice of the person to whom it is required to be given;
- (iv) by affixing on the notice board of the Municipality for a period of at least 30 days, a schedule containing the name of the person who is liable for payment of rates as shown on the valuation roll.

28.4 Where a property in respect of which a rate is payable, is owned by more than one person and either or both of whom are liable for the payment of a rate on such property, the notices required to be given in terms of this Section shall be deemed to have been properly given if posted or delivered to the address of one of such persons, provided that such person may agree amongst themselves to which address such notices shall be posted or delivered and may notify the Municipality accordingly, in the manner provided for in subsection (i) above.

28.5 Any person who is liable for payment of a rate but who has not received an account shall:

28.5.1 Notify the municipality of the address for the receipt of accounts

28.5.2 Not be absolved from paying the amount owing by due date, and any amount outstanding after such date shall attract interest and collection charges as provided for herein, the rates by-laws or the municipality's credit control policy.

28.5.3 If any person who is liable for payment of a rate does not receive an account, such person shall obtain a copy of such account from the offices of the Municipality, before the due date for payment of the account;

28.5.4 Any person who is liable for the payment of a rate shall notify the Municipality of any change of address or other contact details in writing;

28.5.5 A change of address referred to above shall take effect on receipt thereof by the Municipality;

28.5.6 If any person who is liable for the payment of a rate does not receive an account as a result of the person's failure to notify the Municipality of the change of address, such person shall nevertheless pay the amount owing by the due date.

## 29. METHOD AND TIME OF PAYMENT

29.1 The Municipality may recover rates on a monthly basis over a 12 (TWELVE) month period for the financial year which rate must be paid by:

29.1.1 the 28<sup>th</sup> day of the month.

29.1.2 or the date determined by the municipality in its sole discretion in the case where an extension of time as may be granted in writing to any approved applicant.

29.2 Interest shall be payable on any rates remaining unpaid after the final date for payment calculated at a rate to be determined by the Municipality by resolution, and shall be added for each month during which the default continues. For the purposes of raising interest, part of a month shall be deemed to be a month.

29.3 The final date for the payment of rates, as determined by the Municipality in terms of subsection (b) above shall not be affected by reason of any objection or appeal in terms of the Act, and any applicant who has lodged an objection shall pay rates determined in terms of the disputed market value until the objection has been considered and any adjustment made in favour of or against the property owner has been effected.

29.4 Any adjustment or additions made to a valuation roll in terms of sections 51(c), 52 (3) or 69 of the Act, take effect on the effective date of the valuation roll.

29.5 If the adjustment in the valuation roll of a property affect the amount due for rates payable on that property, the municipal manager must:

29.5.1 calculate the amount actually paid on the property since the effective date; and

29.5.2 the amount payable in terms of the adjustment on the property since the effective date; and

29.5.3 recover from or repay to the person liable for payment of the rate the difference determined in terms of

29.5.4 plus interest.

29.5.5 Where an addition has been made to a valuation roll as envisaged in section 55(1) of the Act, the municipal manager must recover from the person liable for the payment of the rate the amount due for rates payable plus interest.

29.5.6 Any adjustment on appeal shall attract the interest rates as determined in terms of the regulations to the Act.

## 30. RECOVERY OF OVERDUE RATES

30.1 The Municipality shall take appropriate steps against the owner of a property where the rates payable on such property are in arrear and shall have the power to sue for and recover all rates, which are due and payable to the Municipality and to implement an action for arrear rates.

30.2 Where the rates payable on a property are overdue, notice stating that such rates are overdue shall be addressed to the owner of the property calling upon the owner to pay such outstanding rates and the penalties accrued or accruing thereon.

30.3 Where a property in respect of which the rates are overdue or in arrears, and the property is owned by more than one person, the notice provided for in subsection (b) shall be served in the manner provided for in this policy or any credit control policy or other legislation.

30.4 In the event that there is no response from the owner, a further notice shall be served on the owner and on the property in which the Municipality shall indicate that services to the property shall be terminated within a stated period should the outstanding rates and any penalties not be paid, or should a satisfactory arrangement not be made by the owner with the Municipality for the payment of the outstanding rates and penalties.

30.5 The Municipality may cause to be published in one or more newspaper circulating in the area of jurisdiction of the Municipality, a notice stating that, if the arrear rates in respect of the financial year specified in the notice, together with all interest and collection charges remain unpaid after a date specified in the notice, application shall be made to a court of competent jurisdiction for an order for the sale by public auction of the properties in respect of which such rates and penalties are in arrear and for the payment in respect of which such rates and penalties are in arrears and for the payment out of the proceeds thereof of all arrear rates together with penalties and costs in respect thereof.

30.6 If after, the publication of a notice in terms of subsection 31.4 such rates, interest and collection charges are not paid within the period stated therein, the Municipality may make application to a court competent jurisdiction showing the amount of rates, interest and collection charges then in arrear and that all notices have been given and requesting the court to order any rateable property or so much thereof as may be sufficient to satisfy the amounts outstanding in terms of rates and penalties, to be sold by public auction and the proceeds thereof to be paid in to court, and to direct payment to the Municipality of all amounts due to it accrued in respect of the date of such sale together with the costs of obtaining the said order and all expenses of such sale.

30.7 Any amounts due for Municipal service fees, property rates and other municipal taxes, levies and duties recovered as a result of the sale of a property by public auction in terms of an order granted by a court of competent jurisdiction, are a charge upon the property so sold and enjoy a preference over any mortgage bond registered against such property.

30.8 If before the sale of any rateable property in terms hereof a certificate is produced to the Deputy Sheriff or other person charged with the sale thereof, a by the Municipality certifying that all amounts owing in terms of outstanding and arrear rates and penalty charges have been made, the said property shall be withdrawn from the sale.

30.9 Notwithstanding that all outstanding and arrear rates penalty charges may have been paid before the said sale, the Municipality shall not be liable to any person for any loss or damage suffered by such person by reason of the sale of any such property in respect of which no such certificate has been produced to the said Deputy Sheriff or other person.

30.10 The municipality reserves the right to refuse the provision of services to an owner or an occupant/lessee of a property if:

30.10.1 the rates in respect of that property are in arrears; and/or

30.10.2 If the owner of the property owner is deceased, and the estate has either not been reported to the master or an Executor has not been appointed in respect of the deceased estate.

### 31. COLLECTION CHARGES

In addition to any rates and interest payable, collection charges shall accrue as follows:

- (i) As from the last working day, an amount representing 10 % of the capital amount of the rates then in arrears.
- (ii) On the grant of a Court Order in terms of Section any further interest and collection charges provided for in terms of applicable legislation of the capital amount or the rates in arrears.
- (iii) The said charges shall be payable to the Municipality and the said amounts or such of them as may be applicable may be recovered by it in any proceedings for the recovery of rates.
- (iv) Nothing herein contained shall prevent the Municipality from taking proceedings for the recovery of any rates, penalties or charges by way of action or other competent procedure in any court of competent jurisdiction.

### 32. RECOVERY OF RATES IN ARREARS FROM TENANTS AND OCCUPIERS

- 32.1 A Municipality may recover arrear rates from tenants and occupiers in accordance with the provisions of Section 28 of the Act.
- 32.2 The amount that the Municipality may recover from the tenant or occupier of a property in terms of Subsection (a) shall be limited to the amount of the rent or other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property.
- 32.3 If the rates levied in respect of a property are unpaid after the due date specified in terms of section 26 of the Act, the Municipality may recover an amount in whole or in part from a tenant or occupier of the property. The Municipality may recover an amount only after the Municipality has served a written notice on the tenant or occupier.
- 32.4 Any amount the Municipality recovers from the occupant or tenant of the property shall be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner.
- 32.5 The tenant or occupier of a property must, on request by the Municipality, or its agent, with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent or other money payable on the property during a period determined by the Municipality.
- 32.6 If the occupier or tenant agrees to pay over to the Municipality any rent and/or other monies due to the owner and not yet paid to the owner, no further action shall be taken against the tenant and the property.
- 32.7 If the occupant or tenant refuses to co-operate with the Municipality, the services to the property may be disconnected and other management actions implemented in terms of the Municipality's Credit Control Policy and Bylaws.
- 32.8 The payment by the occupant or tenant in terms hereof shall be recorded on the property file for further reference.
- 32.9 If the payments by the tenant are not able to redeem the arrears within the following twelve months, the monies shall be attached and the next stage in the Debt Management policy of the Municipality shall be implemented.

### 33. RECOVERY OF RATES FROM AGENTS

- 33.1 The Municipality, may notwithstanding any provisions of the Estate Agents Affairs Act, 1978 (Act No. 112 of 1978), recover the amount due for rates on a property in whole or in part from the agent of the owner in terms of section 29 of the Act.
- 33.2 The Municipality may recover the amount due for rates from the agent of the owner only after it has served a written notice on the Agent.
- 33.3 The amount that the Municipality may recover from the agent is limited to the amount of any rent or other money received by the Agent on behalf of the owner, less any commission due to the Agent.
- 33.4 The Agent shall, on request by the Municipality, furnish the Municipality with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner during a period determined by the Municipality.
- 33.5 The notice served on the property shall inquire whether the occupier is paying rent and other monies to an agent of the owner and shall state that the Municipality may, legally attach the rent payments
- 33.6 If the Managing Agent is identified through the tenants assistance, a copy of the notice, which was served on the tenant, shall be served on the agent stating that failure to co-operate may lead to action being taken against the Agent and the possible termination of the services to the property in question;
- 33.7 If the payments by the Agent are not able to redeem the arrears within the following twelve months, the monies shall be attached and the next stage in the Debt Management Policy of the Municipality shall be implemented.

### 34. RESTRAINT ON TRANSFER OF PROPERTY AND CLEARANCE CERTIFICATES

Adopted by the Mpofana Council on the 30<sup>th</sup> day of June 2014

**Res No:** 31/6/2014



34.1 The municipality shall not issue any certificate in terms of Section 118 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000) unless and until it has received:

34.1.1 all arrear rates, interest and other charges;

34.1.2 all arrear service charges and utility charges due on the property

34.1.3 payment in advance equivalent to four months of the rates payable on the property together with an amount equivalent to four months average consumption of the services supplied to the property.

34.2 A prescribed certificate issued by a Municipality in terms of subsection (a) is valid for 120 days from the date it has been issued.

34.3 In the case of transfer of property by a trustee of an insolvent estate, the provisions of this section are subject to Section 89 of the Insolvency Act, 1936 (Act No. 24 of 1936).

34.4 An amount due for municipal services, surcharge on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with the amount owing and enjoys preference over any mortgage bond registered against the property.

34.5 Where the average monthly consumption of services to a property have been calculated for a period of more than 60 days, the owner, in consultation with the Municipality, shall make arrangements for the reading of the meter in respect of the relevant services in order to comply with provision of Section 118 of the Systems Act.

34.6 Where a conveyancer is able to demonstrate that exceptional circumstances exist, the Chief Financial Officer may accept a letter of undertaking, or a guarantee to the satisfaction of the Municipality for the payment of the amounts against registration of transfer.

### 35. CONSOLIDATION OF ACCOUNTS

Separate accounts of persons liable for payment to the municipality for either rates or services may be consolidated in one account and any appropriation of payments will be done in accordance with the municipality's credit control policy.

### 36. ACCRUED DEBT BY BODY CORPORATE

The sectional title owners shall be held jointly and severally liable for the current and accrued debt of the body corporate incurred prior to 1 July 2009.

### 37. RECOVERY OF RATES

37.1 The municipality may provide for additional conditions relating to the payment and recovery of rates in its Credit Control and Debt Collection policies and Bylaws, including the charging of interest, collection charges and administrative charges.

37.2 The municipality may provide for the termination of services for non payment of rates in its Rates By-laws, Credit Control and Debt Collection policies.

### 38. COMMUNITY PARTICIPATION

It is recorded that every Municipality may only adopt its rates policy or any amendment thereof or any review of its policy after following a process of community participation in accordance with Chapter 4 of the Municipal Systems Act, 2000.

38.1 The Municipality will comply with its community participation and consultation obligations in terms of Chapter 4 of the Municipal Systems Act and Sections 4 and 5 of the Act before the Rates Policy or any review thereof is finally adopted. In terms of Chapter 4 of the Municipal Systems Act, 2000 (Act No. 320 of 2000) the Municipality is committed to:

38.1.1 Building capacity of the local community to enable it to participate in the affairs of the Municipality; and

38.1.2 The foster community participation for which the Municipality will allocate funds in its budget for such processes.

38.2 The participation by the local community in municipal affairs will take place through the political structures, the mechanism, processes and procedures for participation in municipal governance and any other appropriate mechanisms processes and procedures established by the Municipality and generally to apply the provisions for participation as required by this act.

38.3 The Municipality will provide for:

38.3.1 The receipt processing and consideration of petitions, objections and comments lodged by the members of the local community.

38.3.2 Public meetings and hearings by the Municipal Council and other political structures (e.g. ward committees) and political office bearers of the municipality.

38.3.3 Consultative sessions with locally recognized community organizations and where appropriate traditional authorities.

38.4 Communication with the public relating to the rates Policy will be in terms of Section 4 (2) of the act by notice in:

38.4.1 Local newspapers circulating in its area and determined by this Council as newspaper of record; and /or

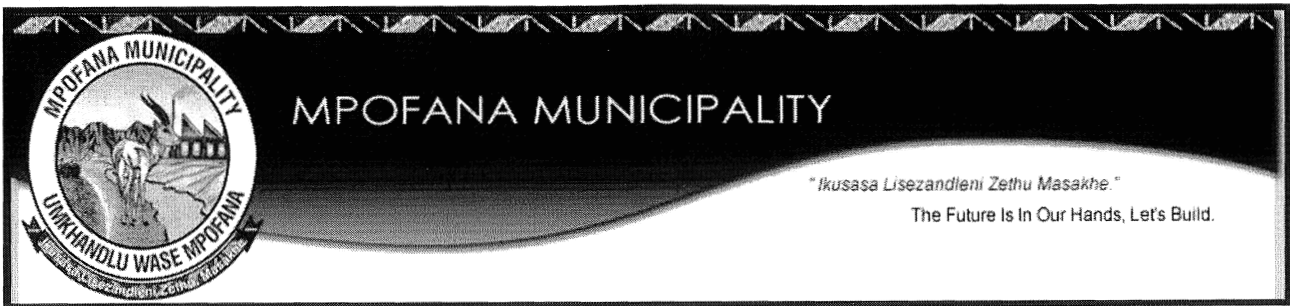
38.4.2 Official notice boards and other public places accessible to the public including the library and the municipal offices;

38.4.3 On Municipal website (if applicable)

And inviting the local community to submit comments and representations within the time specified in the notice.

No. 160

28 November 2014



**MPOFANA**  
**MUNICIPALITY**

**RATES BY-LAWS**

**2014/2015**

Adopted by the Mpošana Council on the 30<sup>th</sup> day of June 2014

**Res No:** 31/6/2014

## RATES BY-LAWS

Be it enacted by the Council of the Mpofana Municipality, in terms of section 156(2) of the Constitution, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and section 6 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), as follows:

### ARRANGEMENT OF SECTIONS

1. Definitions
2. Rates policy
3. Principles
4. Categories of property
5. Categories of owners of property
6. Properties used for multiple purposes
7. Differential rating
8. Exemptions
9. Rebates
10. Reductions
11. Process for granting exemptions, rebates and reductions
12. Short title
13. Commencement

## 1. Definitions

In these by-laws, unless the context indicates otherwise –

“**agricultural purpose**”, in relation to the use of a property, excludes the use of a property for the purpose of ecotourism or for the trading in or hunting of game;

“**annually**” means once every financial year;

“**category**” –

in relation to property, means a category of property determined in terms of section 4 of these by-laws;

in relation to owners of property, means a category of owners of property determined in terms of section 5 of these by-laws;

“**exemption**”, in relation to the payment of a rate, means an exemption granted in terms of section 8 of these by-laws;

“**land tenure right**” means an old order right or a new order right as defined in section 1 of the Communal Land Rights Act, 2004 (Act No. # of 2004);

“**multiple purposes**”, in relation to property, means the use of property for more than one purpose;

“**municipal council**” or “**council**” means a municipal council referred to in section 18 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**municipality**” means the Mpofana Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under section 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000).

“**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;

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

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 these By-laws be regarded by the municipality as the owner of the property in the following cases –

a trustee, in the case of a property in a trust excluding state trust land;

an executor or administrator, in the case of property in a deceased estate;

a trustee or liquidator, in the case of property in an insolvent estate or in liquidation;

a judicial manager, in the case of property in the estate of a person under judicial management;

a curator, in the case of property in the estate of a person under curatorship;

a usufruct or other person in whose name a usufruct or other personal servitude is registered, in the case of property that is subject to a usufruct or other personal servitude;

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a lessee, in the case of a property that is registered in the name of the municipality and is leased by it; or

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;  
the holder of a right of extension in terms of the Sectional Titles Act, 1986, (ct No. 95 of 1986);

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

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

**“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.

**“property register”** means a register of properties referred to in section 23 of the Act;

**“protected area”** means an area that is or has to be listed in the register referred to in section 10 of the National Environmental: Protected Areas Act, 2003 (Act No. 57 of 2003);

**“public benefits organization”** means an organization conducting specified public benefit activities as defined in the Act and registered in terms of the Income Tax Act, 1962 (Act No. 58 of 1962) for a tax reduction because of those activities;

**“publicly controlled”** means owned or otherwise under the control of an organ of state, including –

- (a) a public entity listed in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) a municipality; or
- (c) a municipal entity as defined in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

**“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 the 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 communications system serving the public;
- (g) runways or aprons at national or provincial airports;

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(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 navigation 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 mention in paragraphs (a) to (i).

**"rate"** means a municipal rate on property envisaged in section 229(1)(a) of the Constitution, 1996;

**"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 property, means a discount in the amount of the rate payable on the property granted in terms of section 9 of these by-laws;

**"reduction"**, in relation to a rate payable on property, means the lowering of the amount for which the property was valued and the rating of the property at that lower amount granted in terms of section 10 of these by-laws;

**"residential property"** means property included in a valuation roll in terms of section 48(2) of the Act as residential;

**"sectional title scheme"** means a scheme as defined in section 1 of the Sectional Titles Act;

**"sectional title unit"** means a unit as defined in section 1 of the Sectional Titles Act

**"specified public benefit activity"** means an 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, 1962 (Act No. 58 of 1962);

**"the Communal Land Rights Act"** means the Communal Land Rights Act, 2004 (Act No. 11 of 2004);

**"the Communal Property Associations Act"** means the Communal Property Associations Act, 1996 (Act No. 28 of 1996);

**"the Provision of Land and Assistance"** means the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993);

**"the Restitution of Land Rights Act"** means the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

**"the Sectional Titles Act"** means the Sectional Titles Act, 1986 (Act No. 95 of 1986);

**"the Act"** means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

**"vacant land"** means land on which no immovable improvements have been erected.



## 2. Rates Policy

2.1 The municipal council must, by resolution, adopt a policy on the levying of rates on rateable property in the municipality.

2.2 The rates policy adopted by the municipal council in terms of section 2(1) must comply with the provisions of the Act.

2.3 The municipality must levy rates in accordance with the Act; these by-laws; and the rates policy adopted by the municipal council in terms of section 2(1).

## 3. Principles

The rates policy adopted by the municipal council must comply with the following principles –

- (a) All ratepayers within a specific category, as determined by the municipal council from time-to-time, must be treated equitably.
- (b) A fair and transparent system of exemptions, rebates and reductions must be adopted and implemented by the municipality.
- (c) Relief measures in respect of the payment of rates may not be granted on an individual basis, other than by way of exemption, rebate or reduction.
- (d) Exemptions, rebates and reductions must be used to alleviate the rates burden on –
  - (i) the poor;
  - (ii) public benefit organizations; and
  - (iii) public service infrastructure.
- (e) Provision must be made for the promotion of local, social and economic development; and
- (f) ...

## 4. Categories of Property

4.1 For the purpose of levying different rates on different categories of property, the municipal council must –

- (a) determine different categories of property; or
- (b) provide criteria for determining different categories of property.

4.2 The different categories of property determined by the municipal council in terms of section 4(1)(a); or the criteria for determining different categories of property provided by the municipal council in terms of section 4(1)(b) must be specified in the rates policy adopted by the municipal council in terms of section 2(1).

4.3 The different categories of property determined by the municipal council in terms of section 4(1)(a) may include, but are not limited, to those set out below –

Properties used for agricultural purposes

Commercial and business

Industrial

Residential

Municipal use

Public Service Infrastructure

State and Trust Land

Nature Reserve/National Park

Properties acquired by a land reform beneficiary

Properties on which national monuments are proclaimed and used for such

Properties used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act

Properties used for multiple purposes  
 Properties used for crèche purposes  
 Properties used for clinic purposes  
 Properties used for library purposes  
 Properties used for post office purposes  
 Properties used for police station purposes  
 Properties used for magistrates courts  
 Properties used for education purposes  
 Properties used for place of worship purposes  
 Properties used for sport facility purposes  
 Properties used for cemeteries  
 Properties used for racetrack  
 Properties used for quarry  
 Properties used for zoo and/or game reserve  
 Sectional Title properties  
 A Real Right of Extension registered in terms of a Sectional Titles Scheme  
 Rural Communal Land

4.4 The criteria for determining different categories of property provided by the municipal council in terms of section 4(1)(b) may include, but are not limited, to those set out below –

- (a) the actual use of the property;
- (b) the permitted use of the property;
- (c) the size of the property;
- (d) the geographical area in which the property is located; or
- (e) State Property held in Trust.

## 5. Categories of Owners of Properties

5.1 For the purpose of levying rates on different categories of property or for the purpose of granting exemptions, rebates or reductions, the municipal council must –

- (a) determine different categories of owners of property; or
- (b) provide criteria for determining different categories of owners of property.

5.2 The different categories of owners of property determined by the municipal council or the criteria for determining different categories of owners of property provided by the municipal council must be specified in the rates policy adopted by the municipal council in terms of section 2(1).

5.3 The different categories of owners of property determined by the municipal council in terms of section 5(1)(a) may include, but are not limited, to the following categories –

- (a) indigent owners;
- (b) owners dependent on pensions or social grants for their livelihood;
- (c) owners temporarily without an income;
- (d) owners of property situated within an area affected by a disaster or any other serious adverse social or economic condition;
- (e) owners of residential property whose market value is below the amount indicated in the municipality's rates policy before the first R15 000 mandatory exclusion;
- (f) owners of agricultural property who are *bona fide* farmers; or
- (g) ....

5.4 The criteria for determining different categories of owners of property provided by the municipal council in terms of section 5(1)(b) may include, but are not limited, to the following criteria –

- (a) income of the owner of the property;
- (b) source of income of the owner of the property;
- (c) occupation of the owner of the property;;
- (d) market value of the property;
- (e) use of the property;
- (f) disasters or any other serious adverse social or economic condition; or
- (g) ...

## 6. Properties used for Multiple Purposes

6.1 The municipal council must determine the criteria in terms of which multiple-use properties must be rated.

6.2 The criteria determined by the municipal council in terms of section 6(1) must be specified in the rates policy adopted by the municipal council in terms of section 2(1).

6.3 The criteria determined by the municipal council in terms of section 6(1) must be either –

- (a) the permitted use of the property;
- (b) the dominant use of the property; or
- (c) the multiple-uses of the property

6.4 If the criterion set out in section 3(c) is adopted by the municipal council, the rates levied on multiple-use properties must be determined –

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

## 7. Differential Rating

Subject to and in conformity with the Act, the municipality may levy different rates on different categories of property.

## 8. Exemptions

8.1 Subject to and in conformity with the Act, the municipality may exempt –

- (a) the owners of any specific category of property; and/or
- (b) any specific category of owners of property, from the payment of rates.

8.2 If the municipality chooses to exempt the owners of any specific category of property or any specific category of owners of property from the payment of rates, it must exercise this power in accordance with the criteria determined by the municipal council in terms of section 3(3)(b)(ii) of the Act.

8.3 The criteria determined by the municipal council in terms of section 3(3)(b)(ii) of the Act must be specified in the rates policy adopted by the municipal council in terms of section 2(1).

## 9. Rebates

9.1 Subject to and in conformity with the Act, the municipality may grant a rebate –

- (a) to the owners of any specific category of property; and/or
- (b) to any specific category of owners of property,  
on the rate payable in respect of their properties.

9.2 If the municipality chooses to grant a rebate to a specific category of property or to a specific category of owners of property from the payment of rates, it must exercise this power in accordance with the criteria determined by the municipal council in terms of section 3(3)(b)(iii) of the Act.

9.3 The criteria determined by the municipal council in terms of section 3(3)(b)(iii) of the Act must be specified in the rates policy adopted by the municipal council in terms of section 2(1).

## 10. Reductions

10.1 Subject to and in conformity with the Act, the municipality may grant a reduction:

- (a) to the owners of any specific category of property; and/or
- (b) to any specific category of owners of property,  
in the rate payable in respect of their properties.

10.2 If the municipality chooses to grant a reduction to a specific category of property or to a specific category of owners of property from the payment of rates, it must exercise this power in accordance with the criteria determined by the municipal council in terms of section 3(3)(b)(iii) of the Act.

10.3 The criteria determined by the municipal council in terms of section 3(3)(b)(iii) of the Act must be specified in the rates policy adopted by the municipal council in terms of section 2(1).

## 11. Process for granting exemptions, rebates and reductions

11.1 Applications for exemptions, rebates and reductions must be made in accordance with the procedures determined by the municipal council.

11.2 The procedures determined by the municipal council in terms of section 12(1) must be specified in the rates policy adopted by the municipal council in terms of section 2(1) or the credit control policy, or as specified by the Municipality from time to time.

11.3 The municipality retains the right to refuse an application for an exemption, rebate or reduction if the details supplied in support of such an application are absent, incomplete, incorrect or false.

## 12. Short title

These by-laws will be called the Mpofana Municipality By-Laws, 2014/15.

## 13. Commencement

These by-laws come into force and effect on 01 July 2014

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Adopted by the Mpofana Council on the 30<sup>th</sup> day of June 2014

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**NOTICE – CHANGE OF TELEPHONE NUMBERS: GOVERNMENT PRINTING WORKS**

As the mandated government security printer, providing world class security products and services, Government Printing Works has adopted some of the highly innovative technologies to best serve its customers and stakeholders. In line with this task, Government Printing Works has implemented a new telephony system to ensure most effective communication and accessibility. As a result of this development, our telephone numbers will change with effect from 3 February 2014, starting with the Pretoria offices.

The new numbers are as follows:

- Switchboard : 012 748 6001/6002
- Advertising : 012 748 6205/6206/6207/6208/6209/6210/6211/6212
- Publications Enquiries : 012 748 6052/6053/6058 [GeneralEnquiries@gpw.gov.za](mailto:GeneralEnquiries@gpw.gov.za)
  - Maps : 012 748 6061/6065 [BookShop@gpw.gov.za](mailto:BookShop@gpw.gov.za)
  - Debtors : 012 748 6060/6056/6064 [PublicationsDebtors@gpw.gov.za](mailto:PublicationsDebtors@gpw.gov.za)
  - Subscription : 012 748 6054/6055/6057 [Subscriptions@gpw.gov.za](mailto:Subscriptions@gpw.gov.za)
- SCM : 012 748 6380/6373/6218
- Debtors : 012 748 6236/6242
- Creditors : 012 748 6246/6274

Please consult our website at [www.gpwonline.co.za](http://www.gpwonline.co.za) for more contact details.

The numbers for our provincial offices in Polokwane, East London and Mmabatho will not change at this stage.