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LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 250

MOSES KOTANE LOCAL MUNICIPALITY

PROPERTY RATES BY-LAW

Whereas Section 6 of the Municipal Property Rates Act, 2004 (No. 6 of 2004) requires a municipality to adopt by-laws to give effect to the implementation of its rates policy.

Now therefore the Municipal Council of the Moses Kotane Local Municipality approves and adopts the following rates by-law.

1. Definitions

For the purpose of these by-laws any word or expression to which a meaning has been assigned in the Local Municipal Property Rates Act, 2004 (No. 6 of 2004) shall bear the same meaning in these by-laws and unless the context indicates otherwise-

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

“**approved rates**” means the cent in the Rand rate approved by the municipal council applicable for the financial year

“**flat rate**” means

“**municipality**” means the municipal council for the municipal area of the Moses Kotane Local Municipality (NW 375).

“**trading services**” means services provided by a municipality that can generate a profit that and that can be used to subsidise community services (e.g. - Electricity, water)

“**economic services**” means services provided by a municipality at a tariff where the income and cost of the service will break even – not to make a loss (e.g. – refuse removal, sewerage)

2. Rating of property

In terms of section 2(3) of the Act the power of the municipality to levy rates on property is subject to-

- (a) Section 229(1)(a) of the Constitution,
- (b) The provisions of the Act,
- (c) The municipality's rates policy; and
- (d) This by-law.

3. General principles

- 3.1 Rates are levied as an amount in the rand based on the market value of all rateable property contained in the municipality's valuation roll
- 3.2 Criteria are provided for the determination of categories of property and owners and for the purpose of levying different rates on categories of property and owners.
- 3.3 Different rates will be levied for different categories of rateable property.
- 3.4 Relief measures in respect of payment for rates will not be granted to any category of property or owners on an individual basis, other than by way of an exemption, rebate or reduction in terms of the municipality's rates policy.
- 3.5 All ratepayers with similar properties will be treated the same.
- 3.6 The ability of a person to pay rates will be taken into account.
- 3.7 Provision will be made for the promotion of local economic and social development and a sustainable local government.
- 3.8 Rates will be based on the value of all rateable property and the amount required by the municipality to balance the operating budget.

4. Classification of services and expenditure

- 4.1 The municipal manager or his/her nominee subject to the guidelines provided by the National Treasury and Executive Mayor or Committee and principles contained in the rates policy will classify services, categorise expenditure and create cost centres to prevent that property rates subsidise trading and economic services
- 4.2 Trading and economic services will be ring fenced and financed from service charges while community and subsidised services will be financed from profits on trading and economic services, regulatory fees and rates and rates related income.

5. Categories of properties and owners

- 5.1 In terms of Section 3(3) of the Act the municipality must determine the criteria for the determination of categories of property and owners for granting exemptions, reductions and rebates and criteria if it levies different rates for different categories of property.
- 5.2 In terms of sections 8(1) and 15(1) read in conjunction with section 19 of the Act the municipality may exempt a category of owner of property from rates or grant a rebate or reduction in the rates.
- 5.3 The criteria for categories of property and owners and the different categories of property and owners are reflected in the municipality's rates policy and adjusted annually, during the budget process.

6. Properties used for multiple purposes

- 6.1 Rates on properties used for multiple purposes will be levied as follows:
- (a) In accordance with the "permitted use of the property", if the permitted use of the property is regulated;
 - (b) In accordance with the "dominant use of the property" if (a) cannot be applied; or
 - (c) In accordance with the "different uses" by apportioning the market value of a property to the different purposes for which the property is used if both (a) and (b) above cannot be applied.

7. Differential rating

- 7.1 Criteria for differential rating on different categories of properties in terms of section 8(1) of the Act will be according to-
- (a) The use of the property.
 - (b) Permitted use of the property; or
 - (c) Geographical area in which the property is situated.

7.2 Differential rating among the various property categories will be done by way of setting a rate for each property category

and/or

by way of reductions and rebates,

8. Criteria for exemptions, reductions and rebates

Criteria for determining categories of owners of property for the purpose of granting exemptions, rebates and reductions in terms of Section 15(2) of the Act will be according to-

- (a) indigent status of the owner of a property
- (b) sources of income of the owner of a property
- (c) owners of property situated within an area affected by-
 - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
 - ii. any other serious adverse social or economic conditions;
- (d) owners of residential properties with a market value below a determined threshold; or
- (e) owners of agricultural properties who are *bona fide* farmers

9. Exemptions

9.1 Over and above the exemptions provided for in sections 16 and 17 of the Act specific categories of property as indicated in the table below are exempted from the payment of rates within the meaning of section 15(1)(a) of the Act and 9(2) to 9(7) of this by-law.

Description of category of property	Criteria
Residential	9(3)
Municipal properties	9(2)
Public service infra-structure	9(5) and 9(7)
Cemeteries and crematoriums	9(4) and 9(7)
Public Benefit organizations	9(6) and 9(7)

9.2 Municipal properties

Subject to a majority decision, a municipality may exempt the following municipal properties from paying rates as it will increase the rates burden or service charges to property owners or consumers.

- (a) rateable properties registered in the name of the municipality and is let to the employees of the municipality for residential purposes,
- (b) rateable property registered in the name of another municipality if such property is used in connection with the supply of electricity, water, gas or sewerage services, or
- (c) rateable property registered in the name of the municipality and which is let by the municipality for a nominal rate as determined by the municipality.

except

- (d) If any property belonging to a municipality is disposed off to any person, he shall be considered to be the owner liable for the payment of rates from the date he takes possession.

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

9.3 All residential properties with a market value of less than R 17 000 are exempted from paying rates. The R 15 000 impermissible rates contemplated in terms of section 17(1) (h) of the Property Rates Act is included in the R 17 000 amount. This is an important part of the council's indigent policy and is aimed primarily at alleviating poverty.

9.4 Cemeteries and crematoria registered in the names of private persons and operated not for gain.

9.5 Public service infrastructure

9.6 Public benefit organisations as provided for in the Rates Policy may apply for the exemption of property rates subject to submitting a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (No 58 of 1962):

9.7 Exemptions will be subject to the following conditions:

- (a) all applications must be addressed in writing to the municipality in the prescribed manner or application form;
- (b) a SARS tax exemption certificate must be attached to all applications;

- (c) the municipal manager or his/her nominee must approve all applications;
- (d) applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought; and
- (e) the municipality reserves the right to refuse exemptions if the details supplied in the application form are incomplete, incorrect or false.

10. REBATES

10.1 Categories of properties

10.1.1 The municipality may grant rebates or reduction within the meaning of section 15(1) (b) of the Act on the rates to the owners of the following categories of properties and subject to the criteria and conditions contained in 10(2) to 10(3) of this by-law:

Description of category of property	Criteria
(a) Residential	10(1)(4)
(b) Industrial	10(1)(2)
(c) Business/commercial	10(1)(2)
(d) Agricultural	10(1)(5)
(e) State-owned properties	10(1)(3)
(f) Property below a prescribed valuation level	10(1)(6)

10.1.2 The municipality may grant rebates to rateable enterprises that promote local, social and economic development in its area of jurisdiction, based on its Local, Social and Economic Development Policy.

- i. The following criteria will apply:
 - a. job creation in the municipal area;
 - b. social upliftment of the local community; and
 - c. creation of infrastructure for the benefit of the local community.
- ii. Rebates may be granted on application as prescribed to:
 - a. a business plan submitted in respect of the company indicating how the local, social

- and economic development objectives of the municipality are going to be met;
- b. an implementation plan submitted and certified by auditors of the company stating that the objectives have been met in the first year after establishment and how the business entity plans to continue to meet the objectives;
- c. an assessment by the municipal manager or his/her nominee indicating that the business entity qualifies; and
- d. approval of the application by a municipal council resolution.

10.1.3 State properties

The municipality may grant a percentage rebate as determined in schedule A.

10.1.4 Residential properties

The municipality may grant a percentage rebate as determined in schedule A, which applies to improved residential property that is:

- i. used predominantly for residential purposes, with not more than two dwelling units per property,
- ii. registered in terms of the Sectional Titles Act,
- iii. owned by a share-block company, or
- iv. a rateable residence on property used for or related to educational purposes

10.1.5 Agricultural property rebate

- i. Agricultural properties may be granted a rebate subject to the owner providing the municipality with required information and proof in an affidavit received not later than 30 September each year.
- ii. Qualifying requirements are that the owner should provide proof that he is registered as a *bona fide* farmer with SARS,
or
- iii. where the owner is not taxed as a farmer, proof must be submitted that income from farming activities exceeds 40% of the household income.
- iv. The following rebates may be applicable on the following as determined in schedule A:
 - a. if there are no municipal roads next to the property.

- b. if there is no municipal sewerage to the property.
- c. if there is no municipal electricity to the property.
- d. if water is not supplied by the municipality
- e. if there is no refuse removal that is provided by the municipality.
- f. A rebate may be granted to agricultural property that contributes substantially to job creation, and the salaries/wages of farm workers are reasonable, e.g. if they meet minimum standards set by government or if they are in line with the sector's average.
- g. rebate, if the owner is providing permanent residential property to the farm workers and such property is registered in the name of these farm workers, proof must be provided.
- h. rebate, if such residential properties are provided with potable water.
- i. rebate, if the farmer for the farm workers electrifies such residential properties.
- j. rebate, if the farmer is availing his land/buildings to be used for cemetery, education and recreational purposes of the farm workers' children and nearby community in general, etc.

10.1.6 Properties with a market value below a prescribed valuation level may instead of a rate determined on the market value may be rated on a flat rate per property.

10.2 Categories of owners

10.2.1 The following categories of owners of rateable properties may be granted a rebate on rates levied by the municipality within the criteria of section 15(1) (b) of the Act:

Description of Category of Owners	Criteria
Retired and disabled persons	10(2)(b)

10.2.2 Criteria for granting rebates to category of owners

- (i) To qualify for a retired and disabled persons rate rebate, the rebate a property owner must:

- a. occupy the property as his/her primary residence;
 - b. be at least 60 years of age or in receipt of a disability pension from the Department of Social Development and any other approved pension funds;
- * **Municipality can use a sliding scale as determined in Schedule A**
- c. be in receipt of a total monthly income from all sources (including income of spouses of owner) not exceeding R2 700;
 - d. not be the owner of more than one property; and
- (ii) Property owners must apply on a prescribed application form for a rebate as determined by the municipality.
 - (iii) Applications must be accompanied by-
 - a. a certified copy of the bar coded identity document, passport, driver's license, birth certificate or any other proof of the owner's age which is acceptable to the municipality;
 - b. sufficient proof of income of the owner and his/her spouse/s;
 - c. an affidavit from the owner;
 - d. if the owner is a disabled person proof of a disability pension payable by the state must be supplied; and
 - e. if the owner has retired at an earlier stage for medical reasons proof thereof must be submitted.
 - f. be in receipt of a total monthly income from all sources (including income of spouses of owner) as determined in schedule A.
 - (iv) These applications must reach the municipality before the end of September preceding the start of the new municipal financial year for which relief is sought.
 - (v) The municipality retains the right to refuse rebates if the details supplied in the application form are incomplete, incorrect or false.

11. Reductions

11.1 A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act will be granted where the value of a property is affected by-

11.1.1 a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or

11.1.2 any other serious adverse social or economic conditions

- 11.2 The reduction will be in relation to the certificate issued for this purpose by the municipal valuer,
- 11.3 All categories of owners can apply for a reduction in the valuation of the property as prescribed above,
- 11.4 Owners of the following categories of rateable property situated within the municipality may be granted a reduction within the meaning of section 15(1) (b) of the Act on the rates payable in respect of their properties and subject to the conditions contained in section 11(1) of this by-law:

Description of category of property	Criteria
(a) Residential	11(1)
(b) Industrial	11(1)
(c) Business	11(1)
(d) Agricultural	11(1)
(e) state-owned properties	11(1)
(f) Municipal properties	11(1)
(g) Public service infra-structure	11(1)
(h) Informal settlements	11(1)
(i) Properties -	
(i) Acquired through the Provision of Land Assistance Act, 1993, or the Restitution of Land Rights Act, 1994, or	11(1)
(ii) which is subject to the Communal Property Associations Act, 1996	11(1)
(j) Protected areas	11(1)
(k) National monuments	11(1)
(l) Public benefit organizations (Part 1 of the Ninth Schedule to the Income Tax Act)	11(1)
(m) Multiple purposes	11(1)
(n) Private towns serviced by the developers	11(1)
(o) private towns serviced and maintained by the developers	11(1)

11.5 Criteria for granting reductions

- i. A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act may be granted where the value of a property is affected by fire damage, floods or is demolish.

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

12. COMPULSORY PHASING IN OF RATES

Newly Rateable Properties

Rates levy on newly rateable property will be phased in over a period of three financial years.

The phasing-in discount will be determined as follow:

- (a) In the first year, 75% discount on the rates for the year applicable on the property,
- (b) in the second year, 50% discount on the rates for the year applicable on the property,
- (c) in the third year, 25% discount on the rates for the year applicable on the property,

Newly Rateable property owned and used by Public Benefit Organisations

Rates levied on newly rateable property owned and used by organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for those activities will be phased in over a period of four financial years.

The phasing-in discount will be determined as follow:

- (a) In the first year no rates will be levied on the property concerned,
- (b) In the second year, 75% discount on the rates for the year applicable on the property,
- (c) in the third year, 50% discount on the rates for the year applicable on the property,
- (d) in the fourth year, 25% discount on the rates for the year applicable on the property,

Rates on Property belonging to a land reform beneficiary or his/her heirs

The exclusion on property belonging to a land reform beneficiary or his/her heirs from levying of rates will lapses ten years from the date on which such beneficiary's title was registered in the office of the Registrar of Deeds,

After the exclusion period has lapsed, rates payable on the properties concerned will be phased-in over a period of three financial years.

The phasing-in discount will be determined as follow:

- (a) In the first year, 75% discount on the rates for the year applicable on the property,
- (b) in the second year, 50% discount on the rates for the year applicable on the property,

- (c) in the third year, 25% discount on the rates for the year applicable on the property,

13 Rates increases

- (1) The municipality may consider increasing rates annually during the budget process in terms of the guidelines issued by National Treasury from time to time.
- (2) Rate increases will be used to finance the increase in operating costs of community and subsidised services. Rates will not be used to subsidise trading and economic services.
- (2) Relating to community and subsidised services the following annual adjustments will be made:
 - (a) All salary and wage increases as agreed at the South African Local Government Bargaining Council as well as increases of Section 57 managers
 - (b) An inflation adjustment for general expenditure, repairs and maintenance and contributions to statutory funds, and
 - (c) Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.
- (4) Extraordinary expenditure related to community services not foreseen during the previous budget period and approved by the council during a budget review process may be financed by an increase in property rates.
- (5) Affordability of rates to ratepayers.
- (6) All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.

14. Notification of rates

- (1) The municipality will give notice of all rates approved at the annual budget meeting at least 30 days prior to the date that the rates become effective. Accounts delivered after the 30 days notice will be based on the new rates.
- (2) A notice stating the extent of the municipality's resolution and the date on which the new rates become operational will be displayed by the municipality at places provided for that purpose.

15. Payment of rates

- (1) Ratepayers may choose between paying rates annually in one instalment on or before 30 September or in twelve equal instalments on or before the seventh day of the month following the month in which it becomes payable.
- (2) If the owner of property that is rateable, notifies the municipal manager or his/her nominee not later than 31 May in any financial year, or such later date in such financial year as may be determined by the municipal manager or his/her nominee that he/she wishes to pay all rates in respect of such property in instalments, such owner shall be entitled to pay all rates in the subsequent financial year and each subsequent financial year in twelve instalments until such notice is withdrawn by him/her in a similar manner.
- (3) Interest on arrears of rates, whether payable on or before 30 September or in equal monthly instalments, shall be calculated in accordance with the interest rate as determined by the Minister for Provincial and Local Government.
- (4) If a property owner, who is responsible for the payment of property rates in terms of this policy, fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Credit Control, Debt Collection and indigent policy of the Municipality.
- (5) Arrears of rates shall be recovered from tenants, occupiers and agents of the owner, in terms of section 28 and 29 of the Act.

- 5.1 (a) If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined, the municipality will recover the amount in whole or in part from the tenant or occupier of the property, despite any contractual obligation between the tenant and the owner. The municipality will only recover the outstanding rates from the tenant or occupier after a written notice has been served to the tenant or occupier.
- (b) The amount that the municipality will recover from the tenant or occupier will 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. The tenant or occupier must set off any amount recovered from them by the municipality against any money owed to the owner.
- (c) The tenant or occupier of a property will on request of the municipality, furnish the municipality 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 as may be determined by the municipality.

- 5.2 (a) If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined, the municipality will recover the amount in whole or in part from the agent of the owner. The municipality will only recover the outstanding rates from the agent after a written notice has been served to the agent.
- (b) The amount that the municipality will recover from the agent will be 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.
- (c) The agent, will on request of the municipality, furnish the municipality with a written statement specifying all payments for rent on the property and any money received by the agent on behalf of the owner during a period as may be determined by the municipality.
- (6) Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.
- (7) In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

16. Short title

This by-law is called the rates by-law of the Moses Kotane Local Municipality.

17. Commencement

This by-law comes into force and effect on 1 July 2008.

SCHEDULE A

SCHEDULE OF REBATES

Category/Description	Proposed rebate	Council's adopted rebate
State Properties	20%	20%
Residential Properties (Where applicable)	20%	20%
Public schools	20%	20%
Private schools	20%	20%
Public Service Infrastructure	30%	30%
Rebates on Agricultural Land		
➤ No municipal roads next to property	7,5%	7,5%
➤ No municipal sewerage to the property	7,5%	7,5%
➤ No municipal electricity to the property	7,5%	7,5%
➤ No water supply to the property by the municipality	15%	15%
➤ No refuse removal provided by the municipality	7,5%	7,5%
➤ Contribution to job creation	5%	5%
Contribution to social and economic welfare of farm workers		
➤ Permanent residential property provided to the farm workers	5%	5%
➤ Residential property provide with potable water	5%	5%
➤ Residential property provide with electricity	5%	5%
➤ Availing land/buildings for education and recreational purposes for farm workers	5%	5%
Retired and disabled person on residential properties only		
➤ Owner with income less than R 1 100 per month	Indigent Policy	

Note: The municipality will change this schedule annually after negotiations with community and other role players has been finalised.