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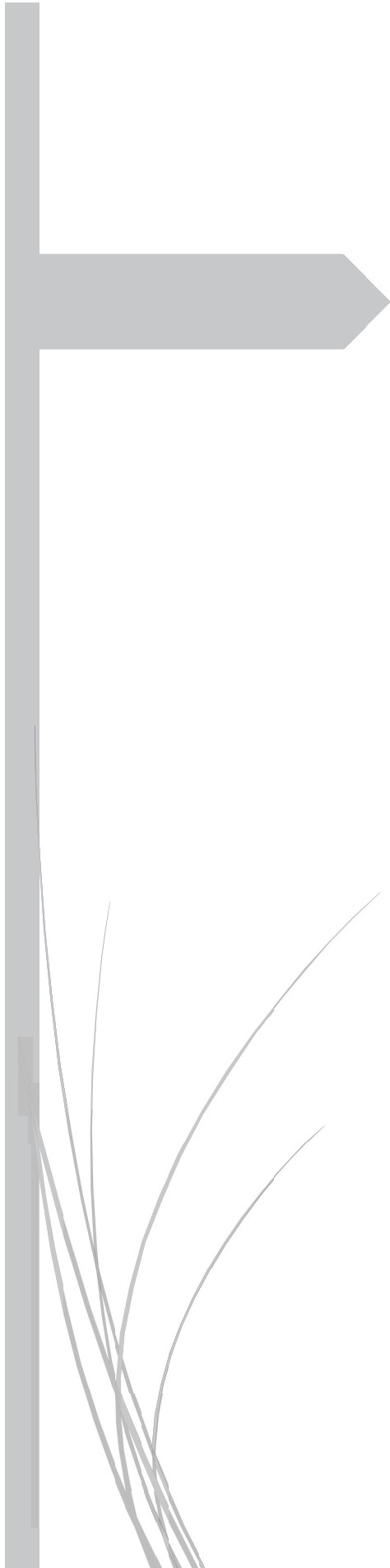
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## CONTENTS

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### LOCAL AUTHORITY

Bitou Municipality: Property Rates By-Laws..... 2



# APPROVED PROPERTY RATES POLICY

2018/2019



**INDEX**

	PREAMBLE
1	OBJECTIVE
2	DEFINITIONS
3	PURPOSE OF THE POLICY
4	POLICY PRINCIPLES
5	SCOPE OF POLICY
6	APPLICATION OF POLICY
7	CLASSIFICATION OF SERVICES AND EXPENDITURE
8	CATEGORIES OF PROPERTIES
9	MULTI PURPOSE PROPERTIES
10	CATEGORIES OF OWNERS
11	LEVYING OF RATES
12	DIFFERENTIAL RATES
13	IMPERMISSIBLE RATES
14	EXEMPTIONS, REBATES AND DEDUCTIONS
14.1	EXEMPTIONS
14.2	REBATES
14.3	REDUCTIONS
15	COMPULSORY PHASING-IN OF CERTAIN RATES
16	COST OF EXEMPTIONS, REBATES & REDUCTION
17	SPECIAL RATING AREAS
18	RATE INCREASES
19	DISREGARDED ITEMS FOR VALUATION PURPOSES
20	LOCAL, SOCIAL AND ECONOMIC DEVELOPMENT

- 21 REGISTER OF PROPERTIES
- 22 NOTIFICATION OF RATES
- 23 CORRECTIONS OF ERRORS AND OMISSIONS
- 24 FREQUENCY OF VALUATIONS
- 25 GENERAL VALUATION & PREPARATION OF VALUATION ROLLS
- 26 DATE OF VALUATION
- 27 COMMENCEMENT AND PERIOD OF VALIDITY
- 28 GENERAL BASIS OF VALUATION
- 29. VALUATION OF PROPERTY IN SECTIONAL TITLE
- 30. SUPPLEMENTARY VALUATION
- 31. ENFORCEMENT / IMPLEMENTATION
- 32 LEGAL REQUIREMENTS
- 33. SHORT TITLE

## **BITOU LOCAL MUNICIPALITY**

### **PREAMBLE**

**WHEREAS** section 3 of the Local Government: Municipal Property Rates Act, 2004 (No 6 of 2004)

**(Herein after called "The Act")**

determines that a municipality must adopt a rates policy in accordance to the determination of the Act and; In terms of section 229 of the Constitution of the Republic of South Africa, 1996 (no. 108 of 1996), a municipality may impose rates on property and;

In terms of the Local Government: Municipal Property Rates Act, 2004 (no 6 of 2004) a municipality in accordance with –

- (a) section 2(1) may levy a rate on property in its area; and
- (b) section 2(3) must exercise its powers to levy a rate on property subject to–
  - (i) Section 229 and any other applicable provisions of the Constitution;
  - (ii) The provisions of the Property Rates Act; and;
  - (iii) The Rates Policy and;

In terms in terms of section 4(1)(c) of the Local Government: Municipal Systems Act, 2000 (no 32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing, *inter alia*, rates on property and;

In terms of section 62(1)(f)(ii) of the Local Government: Municipal Finance Management Act, 2003 (no 56 of 2003) the municipal manager must ensure that the municipality has and implements a rates policy.

**NOW THEREFORE** the following draft policy on the levying of property rates is accepted.

### **1. OBJECTIVES:**

In developing and adopting this rates policy, the council has sought to give effect to the sentiments expressed in the preamble of the Property Rates Act, namely that:

- the Constitution enjoins local government to be developmental in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities;
- there is a need to provide local government with access to a sufficient and buoyant source of revenue necessary to fulfil its developmental responsibilities;
- revenues derived from property rates represent a critical source of income for municipalities to achieve their constitutional objectives, especially in areas neglected in the past because of racially discriminatory legislation and practices; and;
- it is essential that municipalities exercise their power to impose rates within a statutory framework which enhances certainty, uniformity and simplicity across the nation, and which takes account of historical imbalances and the burden of rates on the poor.

In applying its rates policy, the council shall adhere to all the requirements of the Property Rates Act no. 6 of 2004 including any regulations promulgated in terms of that Act.

**The objectives of this policy are also to ensure that–**

- all ratepayers within a specific category are treated equal and reasonable;

- All rates levied are affordable. In dealing with the poor/indigent ratepayers the municipality will provide relief measures through exemptions, reductions or rebates.
- rates are levied in accordance with the market value of the property as determined through a valuation.
- the rate will be based on the value of all rateable property in that category and the amount required by the municipality to balance the operational budget, taking into account the surplus obtained from the trading and economical services and the amounts required to finance exemptions, reductions and rebates that the municipality may approve from time to time;
- income derived from rates will be used to finance community- and subsidized services only;
- to optimally safeguard the income base of the municipality through exemptions, reductions and rebates that are reasonable and affordable taking into account the poor/indigent ratepayers;
- In order to minimize major shocks to certain ratepayers the market values in the new valuation roll or tariffs determined by Council may be phased-in over the entire periods as stipulated in the Rates Act.
- to adhere to the legal requirements of the Property Rates Act (Act 6/2004).

## 2. DEFINITIONS

In this policy, unless the context indicates otherwise–

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

“**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;

“**Accommodation establishment**” means a Guesthouse or Bed a Breakfast.

- (a) a “**Guest House**” means a dwelling house which is used for the purpose of letting individual rooms for residential accommodation, with or without meals, and which exceeds the restrictions of a bed and breakfast establishment. (Includes Self Catering units)
- (b) “**Bed and Breakfasts**” establishment means a dwelling house or second dwelling unit in which the occupant of the dwelling house supplies lodging and meals for remuneration to transient guests who have permanent residence elsewhere.

“**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; and any portion thereof which is used for the hospitality and or accommodation of guests”

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

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

“**business**” means the activity of buying, selling or trade in goods or services and includes any office or other accommodation on the same erf, the use of which is incidental to such business, with the exclusion of the business of mining, agriculture, farming, or inter alia, any other business consisting of cultivation of soils, the gathering in of crops or the rearing of livestock or consisting of the propagation and harvesting of fish or other aquatic organisms. The category business includes accommodation establishments eg: Guest Houses and Bed and Breakfasts.

**“category” –**

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

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

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

**“Nature Reserves, Eco-tourism properties, Conservation Areas, Open Space Zone III,”** means land that is proclaimed in terms of the National Environmental Management: Protected Areas Act, 2003, Act 57 of 2003, or the National Environmental Management: Biodiversity Act, 2004, Act 10 of 2004.

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

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

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

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

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

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

**“land reform beneficiary”** in relation to a property, means a person who-

(a) acquired the property through;-

- (i) the Provincial Land and Assistance Act, 1993 (Act 126/1993);
- (ii) the Restitution of Land Rights Act, 1994 (Act 22/1994);

(b) holds the property subject to the Communal Property Associations Act, 1996 (Act 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 Upgrading of Land Tenure Rights Act, 1991 (Act No.112 of 1991)

**“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 organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
- (iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality.

(b) Includes, more specifically, the poor and other disadvantaged sections of such body of persons.

**“local municipality”** means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155(1) of the Constitution as a category B municipality;

**“market value”**, in relation to a property, means the value of the property determined in accordance with section 46 of the Act;

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

**“mining”** means any operation or activity for extracting any mineral on, in or under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation or activity incidental thereto; as defined in the Mineral and Petroleum Resources Development Act, 2002. (Act no 28 of 2002)

**“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 and cannot be assigned to a single category.

**“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 56 /2003);

**“municipality”** –

(a) as a corporate entity, means a municipality described in section 2 of the Municipal Systems Act; and

(b) as a geographical area, means a municipal area demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

**“municipal manager”** means a person appointed in terms of section 82 of the Municipal Structures Act;

**“municipal properties”** means those properties of which the municipality is the owner;

**“Municipal Systems Act”** means the Local Government: municipal Systems Act, 2000 (Act 32/2000);

**“newly rateable property”** means any rateable property on which property rates were not levied before the end of the financial year (2004) preceding the date on which this Act took effect,(2 July 2005) excluding a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date;

**“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;

**“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; or

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

(vii) a 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 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
  - (iii) any legislation applicable to any specific property or properties; or
- (b) any alleviation of any such restrictions;

**“person”** includes an organ of the state;

**“place of public worship”** means property used primarily for the purposes of congregation, excluding a structure that is primarily used for educational instruction in which secular or religious education is the primary instructive medium. Provided that the property is

- (a) registered in the name of the religious community,
- (b) registered in a trust for the sole benefit of the religious community, or
- (c) subject to a land tenure right.

**“prime rate”** means the prime rate of the bank where the primary account of the municipality is kept plus 1%

**“private open space”** means any land in private ownership used primarily as a private site for play, rest or recreation without financial gain.

**“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;

**“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 Management: Protected Areas Act, 2003;

**“public benefits organisation”** means an organisation conducting specified public benefit activities as defined in the act and registered in terms of the Income Tax Act for tax reductions because of those activities.

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

- (a) a public entity listed in the Public Finance Management Act, (Act 1/1999)
- (b) a municipality; or
- (c) a municipal entity as defined in the Municipal Systems Act

**“public service infrastructure”** means publicly controlled infrastructure as determined in terms of chapter 1 of the Local Government :Municipal Property Rates Act (Act 6/2004)

**“public service purposes”** in relation to the use of the property, means property owned and used by the organ of state and excludes property contemplated in the definition of public service infrastructure”

**“Occupational Practice”**

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

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

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

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

**“Residential property”** means a property included in the valuation roll in terms of section 48(2)(b) of the Act (read with section 8) in respect of which the primary use or permitted use is for residential purposes;

**“Sectional titles Act”** means the Sectional Titles Act, 1986 (Act 95/1986)

**“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:

**“Sport Clubs and fields”** means sport grounds and clubs used for the purpose of amateur and any social activities, which are connected with such sport.

**“State-owned properties”** means properties owned by the State, which are not included in the definition of public service infrastructure in the Act. These state-owned properties is classified as follows:

- (a) State properties that provide local services.
- (b) State properties that provide regional/municipal district-wide/ metro-wide service.
- (c) State properties that provide provincial/national service.

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

**“Vacant land”** means land where no immovable improvements have been erected. Vacant land can be classified as follows:

- (a) *Residential vacant, means a property included a valuation roll in terms of section 8(2) of the Act (read with section 8(3)) as vacant.*
- (b) *Business vacant means a property included a valuation roll in terms of section 8(2) of the Act (read with section 8(3)) as business vacant.*
- (c) *Industrial vacant, means a property included a valuation roll in terms of section 8(2) of the Act (read with section 8(3)) as industrial vacant.*
- (d) *Agricultural Vacant, means a property included in the valuation roll in terms of section 8 (2) of the Act (read with section 8(3)) as Agricultural vacant*

### 3. PURPOSE OF THE POLICY

The purposes of the policy are to:

- (1) Comply with the provisions section 3 of the Act.
- (2) Determine criteria to be applied for–
  - (a) the levying of differential rates for different categories of properties;
  - (b) exemptions;
  - (c) grants and rebates; and

- (d) rate increases.
- (3) Determine or provide criteria for the determination of:-
- (a) categories of properties for the purpose of levying different rates; and
  - (b) categories of owners of properties for the purpose for the granting of exemptions, rebates and reductions.
- (4) Determine how the municipality's powers must be exercised in relation to multi purpose properties.
- (5) Identify and provide reasons for :
- (a) exemptions, rebates and reductions;
  - (b) exclusions; and
  - (c) rates on properties that must be phased in.
- (6) Take into account the effect of rates on the poor.
- (7) Take into account the effect of rates on organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax exemptions because of those activities, in the case of property owned and used by such organisations for those activities.
- (8) Take into account the effect of rates on public service infrastructure.
- (9) Determine measures to promote local economic and social development.
- (10) Identify all rateable property that is not rated.

#### **4. POLICY PRINCIPLES**

The rates policy will be based on the following principles:

- (a) Equity
- (b) Affordability
- (c) Sustainability
- (d) Cost efficiency

The council shall as part of each annual operating budget component impose a rate in the rand on the market value of all rateable property as recorded in the municipality's valuation roll or supplementary valuation roll. Rateable property shall include any rights registered against such property, with the exception of a mortgage bond.

The council pledges itself to limit each annual increase as far as possible to the increase in the consumer price index over the period preceding the financial year to which the increase relates.

The council shall, in imposing the rate for each financial year, take proper cognisance of the aggregate burden of rates and service charges on representative property owners, in the various categories of property ownership, and of the extent to which this burden is or remains competitive with the comparable burden in other municipalities within the local economic region.

The council shall further, in imposing the rate for each financial year, strive to ensure that the aggregate budgeted revenues from property rates, less revenues forgone and less any contributions to the provision for bad debts, equal at least 25% (twenty five percent) of the municipality's aggregate budgeted net

revenues for the financial year concerned. By doing so, the municipality will ensure that its revenue base and the collect ability of its revenues remain sound.

**Other policy principles:**

1. All ratepayers, in a specific category, as determined by council from time to time, will be treated equitably.
2. Rates will be raised in proportion to the market value of the property as determined by the municipal valuer through a valuation process.
3. The rates tariff will be based on the value of all rateable properties and the amount required by the municipality to balance the operating budget after taking in account profits generated on trading and economic services and the amounts required to finance exemptions, rebates and grants in-aid of rates as approved by council from time to time.
4. Trading and economic services will be ring fenced and tariffs and service charges calculated in such a manner that the income generated covers the cost of the services or generates a profit.
5. Property rates will be used to finance community and subsidised services and not to subsidise trading and economic services.
6. Profits on trading and economic services can be used to subsidise community and subsidised services.
7. The provision for working capital for community and subsidised services must be equal to the non-payment of rates during the previous financial year and must not include any working capital provision relating to trading and economic services.
8. The income base of the municipality will be protected at all costs, by limiting exemptions, reductions and rebates.

The policy will be reviewed annually during the Budget process.

**5. SCOPE OF THE POLICY**

This policy document guides the annual setting (or revision) of property rates. It does not make specific property rates proposals. Details pertaining to the applications of the various property rates are published in the *Provincial Gazette* and the municipality schedule of tariffs, which must be read in Conjunction with this policy.

**6. APPLICATION OF THE POLICY**

In imposing the rate in the rand for each annual operating budget component, the municipality shall grant exemptions, rates and reductions to the categories of properties and categories of owners as allowed for in this policy document.

**7. CATEGORIES OF PROPERTY**

7.1 Criteria for determining categories of properties for the purpose of levying different rates and for the purpose of granting exemptions will be according to the –

- (a) use of the property
- (b) permitted use of the property, or .
- (c) a combination of (a) and (b)

7.2 The municipality must determine the following categories of rateable properties if such categories exist in the municipal jurisdiction;

- (a) residential properties;
- (b) business and commercial properties;
- (c) industrial properties;
- (d) public service infrastructure;
- (e) properties used for public benefit purposes;
- (f) agricultural properties;
- (g) properties owned by an organ of state and used for public service purposes;
- (h) multiple use properties;
- (i) mining properties
- (j) any other category of property of property as may be determined by the minister, with concurrence of the Minister of Finance, by notice in the gazette.

7.3 The category of Sport Club is a distinct category of property inserted in the valuation roll in terms of section 8(3) of the Act.

## 8. CATEGORIES OF OWNERS

Criteria for determining categories of owners of properties, for the purpose of granting exemptions, rebates and reductions will be according to the—

- (a) indigent status of the owner of a property
- (b) sources of income or/and monthly household 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, 20002 (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. PROPERTIES USED FOR MULTIPLE PURPOSES

Properties used for multiple purposes will be categorized as follows for rating purposes:

The entire property can be categorized in terms of the permitted use of the property

The entire property can be categorized in terms of the dominant (main or primary) use; or

(iii) The entire property must be categorized in terms of the actual use (this categorization does not make the unauthorized land use legal)

by apportioning the market value of a property to the different purposes for which the property is used as determined in item 8 (categories of properties) above.

If the market value of the property can be apportioned, each portion must be categorized according to its individual use as determined in item 8 above. If the market value of the property cannot be apportioned to its various use purposes, then such a property must be categorized as either (i) or (ii) above and;

applying the relevant cent amount in the rand to the corresponding apportioned market value.

## **10. CLASSIFICATION OF SERVICES AND EXPENDITURE**

The Chief Financial Officer shall, subject to the guidelines provided by the National Treasury and Mayoral Committee of the Council, make provision for the classification of services as outlined in the Municipality's annual budget into trading and economic services.

## **11. LEVYING OF RATES**

### **(1) Liability for rates by property owners:**

Rates levied by a municipality on a property must be paid by the owner of the property, subject to section 9 of the Municipal Systems Act.

Joint owners are jointly and severally liable for the amount due for rates on that property. In a case of agricultural property owned by more than one owner in undivided shares where the holding of such undivided shares was allowed before the commencement of the subdivision of the Agricultural Land Act (Act 70 of 1970) the municipality may consider the following options for determining the liability for rates:

- If the joint owners are all available, the issue of who is liable for rates will be dealt with in the context of whether they have entered into an agreement or not regarding payment of rates liabilities.
- Where the joint owners have a written agreement that a specific joint owner is liable for all the rates, the municipality will hold such a joint owner liable in respect of all the rates.
- A certified copy of the agreement must be submitted to the municipality.
- Where there is no agreement, the municipality will hold anyone of the joint owners responsible for the whole property or hold any joint owner only liable for his undivided share
  - (i) If the joint owners are not traceable with the exception of one joint owner and such joint owner is occupying or using the entire property or a significant larger portion the municipality will hold that joint owner liable for the total rates bill.
  - (ii) If the traceable joint owner is only using or occupying a small portion of the entire property, the municipality will hold that joint owner only responsible for his own undivided share in that property

### **(2) Method and time of payment**

The municipality will recover the rate levied in periodic instalments of equal amounts in twelve months. The instalment is payable on or before the 15<sup>th</sup> day of every month, following the month in which it has been levied. Interest will be charged at 1% above the prime interest rate for any late payments received.

### **(3) Annual Payment Arrangements**

By prior arrangement with the municipality the rate may be paid in a single amount before 30 September of the year it is levied in, however, application must be submitted before 31 May prior to the financial year of implementation of the arrangement. The Director: Financial Services will consider any applications after this date.

**(4) (i) Recovery of arrear rates from owner**

As soon as the annual rates becomes overdue, an overdue notice must be issued on the owner at the address selected by the owner.

If there is no response from the owner, a further overdue notice should be served at the property with a rider that the services to the property will be terminated within a reasonable period, the minimum being 30 days, should the rates not be paid or satisfactory arrangements made.

This notice should enquire whether the occupier is paying rent and other monies to an agent of the owner and the state that the municipality can, legally, attach the net payment. (i.e. gross receipts by the agent less commission due to the agent on those gross receipts) due to the owner by the agent to settle the arrears. Should the tenant refuse to co-operate, the services should be disconnected and the other debt management actions implemented.

**(4) (ii) Recovery of arrear rates from tenants, occupiers and agents**

If an amount due for rates levied in respect of a property is unpaid after the day determined, the municipality may recover the amount in whole or in part from a tenant or occupier of the property. The amount the municipality might recover from the tenant or occupier of the property is limited to the amount of the rent or other money due and payable by the tenant or occupier to the owner of the property. Any amount the municipality recovers from the tenant or occupier of the property may be set off, by the tenant or occupier, against any money owed by the tenant or occupier to the owner.

The municipality may recover the amount due for rates from an agent of the owner after it has given written notice to that agent or person. The amount the municipality may recover from the

agent or other person is limited to the amount of that rent received by the agent or person, less the commission due to that agent or person (subject to the Estate Agents Act, 1976 (Act No. 112 of 1976)). The agent or other person must, on request by the municipality, furnish the municipality with a written statement specifying all payments for rent on the property received by that agent or person during a period determined by the municipality.

If the managing agent is identified through the tenant's assistance, a copy of the notice, which was served on the tenant, must be served on the agent stating that failure to co-operate would lead to action being taken against the agent as well as the termination of the services at the supply address.

Should the payments by the agent not be able to redeem the arrears within the next 12 months, the monies must be attached and the next step in the debts management plan of the municipality implemented. The municipality may however decide to extend the 12 month period to such longer period that they deem fit based on the merit.

**(5) Deferral of payment of rates liabilities**

The municipality will consider each and every application for deferral of rates, taking into account the merits and demerits of each and the financial implications thereof in so far the cash-flow of the municipality is concerned.

**(6) Supplementary Valuation Debits**

In the event that a property has been transferred to a new owner and an Supplementary Valuation took place, the previous owner as well as the new owner will jointly and separately be held responsible for the settling the supplementary rates account.

**(7) Ownership**

Properties, which vest in the Municipality during developments, i.e. open spaces and roads should be transferred at the cost of the developer to the Municipality.

Until such time, rates levied will be for the account of the developer.

**(8) Clearance Certificate**

With the sale of a property within the municipal jurisdiction the council shall withhold rates clearance certificate until all rates, services and sundry costs attached to the property is paid and an amount equal to four months rates and service charges will be collected in advance as part of the rates clearance process. The clearance certificate remains valid for 120 days from the date of issuing.

**(9) Levying of rates on property in sectional title scheme**

A rate on property, which is subject to a sectional title scheme, will be levied on the individual sectional title units in the scheme.

**12. DIFFERENT RATING AND RATIOS**

12.1 The following has been taken into consideration for the purpose of differential rating:

- The nature of the property, including its sensitivity to rating e.g. agricultural properties used for farming purposes.
- Vacant land may be rated higher (in terms of cent amount in a rand) as the municipality is encouraging owners of vacant land to develop it and that owners should not use the vacant land for speculation purpose.
- Promotion of social and economic development of the municipality.

Differential rating among the various property categories will be done by way of setting different Cent amount in the Rand for each property category, rather than by way of reductions and rebates.

The Chief Financial Officer will annually calculate the costs of these services and determine through a public participation process to which extent these services are used by the various categories of ratepayers. Inputs from representatives from the various categories of ratepayers must be considered and agreed upon.

Different categories of properties may pay different rates in the rand based on the market value of their properties.



12.2 The following ratios published under GN R195 in GG33016 of 12 March 2010 are applicable in levying rates:

Categories	Ratio in relation to residential properties
Residential Property	1:1
Agricultural Property	1:0.25
Public Service Infrastructure	1:0.25
Public Benefit Organisation Property	1:0.25

### 13. IMPERMISSIBLE RATES

A municipality may not levy the following rates in terms of sections 16(1) and 17(1) of the Act:

- (i) Rates that would prejudice national economic policies.
- (ii) Rates that would prejudice economic activities across boundaries
- (iii) Rates that would prejudice national mobility of goods, services, capital or labour
  - On the first 30% of market value of public service infrastructure
  - On any part of the seashore as defined in the National Environmental Management: Integrated Coastal Management Act, 2008. (Act no 24 of 2008)
  - On any part of the territorial waters of the Republic in terms of the Marine Zones Act (15/1994)
  - On any island of which the state is the owner including the Prince Edward Islands
  - On a special nature reserve, national park or nature reserve within the meaning of the National Environmental Management: National Environmental Management: Protected Areas Act 2003 (Act no.57 of 2003), or of a national botanical garden within the meaning of the National Environment Management: Biodiversity Act of 2004(Act no 10 of 2004) which are not developed or used for commercial, business or residential agricultural purposes.
  - On a mineral right within the definition of property
  - On a property belonging to a land reform beneficiary or his or her heirs, dependents or spouse 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, or upon alienation of the property by the land reform beneficiary or his or heirs dependents or spouse.
  - On the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll to a category determined as residential property or multiple used property provided that one or more component is used for residential purposes.
  - On property registered in the name of and used primarily as a place of public worship by a religious community, including the official residence registered in the name of that community, which is occupied by the office-bearer of that community who is, officiates at services at that place of worship. ***(The exclusion lapses if not used for the purposes as indicated above)***

### 14. EXEMPTIONS, REBATES AND REDUCTIONS

14.(a) In imposing the rate in the Rand for each annual operating budget component, the council shall grant the following exemptions, rebates and reductions to the categories of properties and categories of owners indicated, but the council reserves the right to amend these exemptions, rebates and reductions if the circumstances of a particular annual budget so dictates.

14.(b) In determining whether a property forms part of a particular category indicated, the municipality shall have regard to the actual use to which the relevant property is put. In the case of vacant land not specifically included in any of the categories indicated, the permitted use (zoning) of the property shall determine into which category it falls.

Municipal properties shall include properties owned by municipal entities.

**NOTE: In terms of Section 17(1)(h) of the Property Rates Act, the first R15 000 of the market value of all residential properties and of all properties used for multiple purposes, provided one or more components of such properties are used for residential purposes, is exempt from the payment of rates. This amount is R15 000.**

14.(c) The council grants exemptions, reductions and rebates in recognition of the following factors:

- The inability of residential property owners to pass on the burden of rates, as opposed to the ability of the owners of business, commercial, industrial and certain other properties to recover such rates as part of the expenses associated with the goods or services, which they produce.
- The need to accommodate indigents, less affluent pensioners and people depending on social grants for their livelihood.
- Owners temporarily without income
- The services provided to the community by public service organisations.
- The value of agricultural activities to the local economy coupled with the limited municipal services extended to such activities, but also taking into account the municipal services provided to municipal residents who are employed in such activities.
- The need to preserve the cultural heritage of the local community.
- The need to encourage the expansion of public service infrastructure.
- The indispensable contribution which property developers (especially in regard to commercial and industrial property development) make towards local economic development and the continuing needs to encourage such development.
- Owners of property situated within an area affected by a disaster within the meaning of the Disaster management Act or any other serious social or economic conditions
- Owners of residential properties with a market value lower than an amount determined by the municipality
- The requirements of the Property Rates Act No. 6 of 2004.

The municipal manager shall ensure that the revenues forgone in respect of the foregoing rebates etc. are appropriately disclosed in each annual operating budget component, in the annual financial statements and annual report as stipulated in section 15(3) & (4) of the act and that such rebates are also clearly indicated on the rates accounts submitted to each property owner.

14.(d) All applications for rebates as required must be addressed in writing on the prescribed application form to the municipality;

Applications for Agricultural properties must reach the municipality by 30 September preceding the start of the new municipal financial year for which relief is sought. The last tax assessment proving that the owner is taxed by SARS as a bona fide farmer must be attached to the application.

A SARS tax exemption certificate/sufficient proof of status/income of household/affidavits for proof of reasons/identity documents must be attached to all applications;

Applicants must occupy the property and not be the owner of more than one property;

Where the owner is for acceptable reasons due to no fault of his/her own unable to occupy the property, the spouse or minor children may satisfy the occupancy requirements;

The municipal manager or his/her nominee must approve all applications;

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

The municipality retains the right to refuse exemptions if the details supplied in the application form were incomplete, incorrect or false.

#### 14.1 EXEMPTIONS

The following categories of property are conditionally partially or fully exempted from rates:

- (i) municipal properties
- (ii) municipal public infrastructure
- (iii) informal settlements
- (iv) museums
- (v) national monuments
- (vi) property lower in value than the amount determined by the municipality
- (vii) a right registered against immovable property
- (viii) public benefit organisations use their property for specific public benefit activities and listed in part 1 of the 9th schedule of the Income Tax Act, 1962 (Act 58 of 1962)

The following Public Benefit Organisation may apply for the exemption of property rates subject to producing a tax exemption certificate issued by the South African Revenue Service (SARS) as contemplated in Part 1 of the 9th schedule of the Income Tax Act, 1962 (Act 58 of 1962)

(a) Welfare and humanitarian

Rateable property registered in the name of an institution or organisation, which, in the opinion of the council, performs welfare and humanitarian work as contemplated in the ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962).

Rateable property, registered in the name of a trustee or trustees or any organisation, which is maintained for the welfare of war veterans.

(b) Conservation, environment and animal welfare:

Properties that is in the name of an organisation or institution, that is engaging in the conservation, rehabilitation or protection of the natural environment, including flora and fauna. Rateable property registered in the name of an institution or organisation, which has as its exclusive objective the protection of tame or wild animals or birds.

(c) Education and development:

Rateable property registered in the name of an educational institution established, declared or registered by or under any law.

(d) Health care:

Rateable property registered in the name of an institution or organisation which has as its exclusive objective is health care or counselling of terminally ill persons or persons with a severe physical or mental disability and persons affected with HIV/AIDS.

Rateable property registered in the name of an institution or organisation which, in the opinion of the Council, performs charitable work;

Applications for Public Benefit organizations must reach the municipality before end October preceding the start of the new municipal financial year in which relief is sought. 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.The municipal manager or his nominee must approve all applications.

#### 14.2 REBATES Categories of properties & owners

(1) Rebates for the following categories of properties or owners will be considered:

(a) Rebates in respect of income categories:

The following owners may be granted a rebate on or a reduction in the rates payable on their property if they meet the following criteria-

- Registered owner of the property that resides on the property;
- Income must not exceed an amount annually set by the Council

(b) Cultural:

Rateable property registered in the name of Boy Scouts, Girl Guides,

Sea Scouts, Voortrekkers or any other organisation which in the opinion of the council is similar or any rateable property let by a council to any of the said organizations.

The promotions, establishment, protection, preservation or maintenance of areas, collections or buildings of historical or cultural interest, national monuments, proclaimed national heritage sites, museums, including art galleries, archives and libraries.

(c) Agricultural (Experimental Farms):

Rateable property, registered in the name of an agricultural society affiliated to or recognised by the South African Agricultural Union, which is used for the purposes of such a society.

(d) Municipal property and usage:

A pro-rata rebate will be granted where the municipality is engaged in land sales transactions which have taken place after the financial year has started.

Where the municipality register a road reserve or servitude on a privately owned property a pro-rata rebate equal to the value of the reserve or servitude will be given to the owner of the property.

Rateable property registered in the name of the Council, if such property is used in supplying electricity, water, or sewerage service

(e) Owners of agricultural properties who are *bona fide* farmers

When considering grants on property used for agricultural purposes the council must take into account the following factors:

The contribution of agriculture to the local economy

The assistance of agriculture to meet the service delivery and development obligations of the municipality and

The contribution to the social and economic welfare of the farm workers.

These proposals also apply to the mining sector.

The following rebate may be applicable to *bona fide* farmers.

- The rate ratio that the Minister for Provincial and Local Government in concurrence with the Minister of Finance from time to time may determine and publish in the *Government Gazette*

*Grants-in-lieu-of-rates* will be granted subject to:

- A certificate issued by the registered auditor of the organisation or institution stating that the activities performed is not for gain.
- A certified income and expenditure statement and balance sheet that indicate the inability to pay for rates.
- An assessment by the Chief Financial Officer, which indicates that the organization or institution qualifies in terms of council's policy.
- Council's approval on annually providing credible proof of the ratepayers circumstances/needs to the municipality

**Applications for the rebate must be submitted before the end of October preceding the new financial year for which relief is sought.**

#### **MUNICIPALITY TO DECIDE ACCORDING TO THEIR CIRCUMSTANCES/NEEDS WHAT PERCENTAGE REBATE TO GRANT**

#### **14.3 REDUCTIONS Categories of property**

- (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 fire damage, demolition or floods or any area declared as a disaster area in terms of the Disaster Management Act ***The reduction will be in relation to the certificate issued for this purpose by the municipal valuer***
- (2) any other serious adverse social or economic condition;
- (3) Management of rates shocks:

The municipality may limit rates shocks to property owners due to the increase in the market value of their properties as a result of the compilation and implementation of the new valuation roll by phasing-in the new market value as reflected in the valuation roll over the four year life cycle of the valuation role or by reducing the rate in the Rand levied on the new valuation roll drastically

The table below explains the phasing-in method.

<b>Valuation Cycle</b>	<b>Value on a roll without phasing-in (in Rand)</b>	<b>Rates payable assuming 1Cent/Rand</b>	<b>Value on a roll after phasing-in (in Rand), Assuming 25% phasing in.</b>	<b>Rates payable assuming 1Cent/Rand</b>
Last Year of cycle	60 000	<b>600</b>	60 000	<b>600</b>
1 <sup>st</sup> Year in new cycle	70 000	<b>700</b>	62 500	<b>625</b>
2 <sup>nd</sup> Year in new cycle	70 000	<b>700</b>	65 000	<b>650</b>
3 <sup>rd</sup> Year in new cycle	70 000	<b>700</b>	67 500	<b>675</b>
4 <sup>th</sup> (last) Year in cycle	70 000	<b>700</b>	70 000	<b>700</b>

#### **15. COMPULSORY PHASING-IN OF CERTAIN RATES**

Rates levied on newly rateable properties must be phased in over a period of three years, the MEC for local government may extend, on written request by the municipality, this period to a maximum of six financial years.

When extending a phasing-in period, the MEC must determine the minimum phasing-in discount on the rate payable during each financial year in the extended period.

## **16. COSTS OF EXEMPTIONS, REBATES, REDUCTIONS, PHASING-IN OF RATES AND GRANTS-IN-LIEU OF RATES**

1. During the budget process the Director: Financial Services must inform council of all the costs associated with the suggested exemptions, rebates, reductions, phasing in of rates and grants-in-lieu of rates.
2. Provisions must be made in the operating budget –
  - for the full potential income associated with property rates; and
  - for the full costs associated with exemptions, rebates, reductions, phasing in of rates and grants-in-lieu of rates.
3. Projections regarding revenue foregone for a financial year in relation to exemptions, rebates, reductions, exclusions, phasing-in etc. must be reflected in the council's annual budget for that year.
4. A list of all exemptions, rebates, reductions, exclusions, phasing in etc. must be tabled before council as per the MPRA.

## **17. SPECIAL RATING AREA**

The municipality may by council resolution determine an area within its boundaries as a special rating area for the purpose of raising funds for improving or upgrading that area; and differentiate between categories of property when levying an additional rate.

Before determining a special rating area the municipality must consult the local community on the proposed boundaries of the area, the proposed improvement or upgrading of the area and obtain the consent of the majority of the ratepayers in that proposed special rating area.

The municipality must determine the boundaries and indicate how the area is to be improved or upgraded by the funds derived from the additional rate. Establish a separate accounting and record-keeping system regarding the revenue generated by the special rate and the improvement or upgrading of the area.

The municipality may establish a committee composed of persons representing the community to act as a consultative and advisory forum. Representivity, including gender must be taken into account when such a committee is established.

## 18. RATE INCREASES

1. The municipality shall consider increasing rates annually during the budget process taking into account the following criteria:

- Priorities of the municipality reflected in its Integrated Development Plan (IDP)
- The revenue needs of the municipality
- The need for management of rates shocks
- Affordability of rates to ratepayers

Rates increases will be used to finance the increase in operating costs of community and subsidised services.

Relating to community and subsidised services the following annual adjustments will at least be made:

- (i) All salary and wage increases as agreed at the National Bargaining Council
- (ii) An inflation adjustment for general expenditure, repairs, maintenance, and contributions to funds, **and**
- (iii) Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.

Extraordinary expenditure not foreseen during the previous budget period and approved by the council during a budget review process will be financed by an increase in property rates.

All increases in the property rates will be communicated to the local community in terms of the council's policy on community participation.

The Minister may, with the concurrence of the Minister of Finance and by notice in the Gazette, set an upper limit on the percentage by which rates on property categories or a rate on a specific category of properties may be increased; or the total revenue derived from rates on all property categories or a rate on a specific category of properties may be increased.

## 19. DISREGARDED ITEMS FOR VALUATION PURPOSES

The following must not be taken into account in determining the market value of a property:

- (i) Any building or other immovable structure under the surface of the property which is the subject matter of any mining authorization or mining right defined in the Mineral and Petroleum Resources Development Act, 2002 (Act no 28 of 2002)
- (ii) the value of any equipment or machinery which, in relation to the property concerned, is immovable property, excluding—
  - (a) a lift
  - (b) an escalator
  - (c) an air-conditioning plant
  - (d) fire extinguishing apparatus
  - (e) a water pump installation for a swimming pool or for irrigation or domestic purposes; and
  - (f) any other equipment or machinery that may be prescribed; and
- (iii) an unregistered lease in respect of the property
- (iv) in respect of property used for agricultural purposes the value of any annual crops or growing timber on the property that have yet not been harvested at the date of valuation.

## **20. LOCAL, SOCIAL AND ECONOMIC DEVELOPMENTS**

The municipality may grant rebates to organisations that remotes local, social and economic development in its area of jurisdiction based on the criteria determined in its local, social and economic development policy. The following criteria will apply:

- (a) job creation in the municipal area;
- (b) social upliftment of the local community; and poverty alleviation to the indigents
- (c) Improve local economic growth
- (d) Promote service delivery

## **21. REGISTER OF PROPERTIES**

The Chief Financial Officer must draw up and maintain a register of properties as contemplated in section 23 of the Act.

## **22. NOTIFICATION OF RATES**

- The council 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.
- A notice stating council's resolution, date on which the new rates shall become operational will be published in the media and the *Provincial Gazette* and displayed by the municipality at places installed for that purpose.

## **23. CORRECTION OF ERRORS AND OMISSIONS**

Where the rates levied on a particular property have been incorrectly determined, whether by 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. In addition, where the error occurred because of false information provided by the property owner or because 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.

## **24. FREQUENCY OF VALUATIONS**

The municipality shall prepare a new valuation roll every 4 (four) years and a supplementary valuation roll annually at least once a year.



## **25. GENERAL VALUATION AND PREPARATION OF VALUATION ROLLS**

A municipality intending to levy a rate on property must cause a general valuation to be made of all properties in the municipality, and must prepare a valuation roll of all properties in terms of such valuation.

All ratable properties in a municipal area must be valued during such general valuation, including all properties fully or partially excluded from rates in terms of Section 17 of the present Act. However, if the municipality does not intend to levy rates on its own property, on public service infrastructure owned by a municipal entity, on rights in properties, and 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 racial discrimination, the municipality is not obliged to value such properties as part of the valuation process.

A municipality may also apply to the Minister for exemption from the obligation to value properties excluded from rates in terms of Section 17 if the municipality can demonstrate that the valuation of such properties is too onerous for it, given its financial and administrative capacity.

Properties which have not been valued, because of any of the foregoing considerations, must nevertheless be included in the valuation roll.

## **26. DATE OF VALUATION**

For the purposes of a general valuation a municipality must determine a date that may be not more than 12 months before the start of the financial year in which the valuation roll is to be first implemented.

The general valuation must reflect the market values of properties in accordance with market conditions which apply as at the date of the valuation, and in accordance with any other applicable provisions of the present Act.

## **27. COMMENCEMENT AND PERIOD OF VALIDITY OF VALUATION ROLLS**

A valuation roll takes effect from the start of the financial year following completion of the public inspection period required by the present Act, and remains valid for that financial year or for one or more subsequent financial years, as the municipality may decide, but in total not for more than five financial years in respect of a local municipality.

Section 32(2) provides for the extension of the period of validity of the valuation roll by the MEC for Local Government, but only up to a period of seven financial years, and only in specified circumstances.

## **28. GENERAL BASIS OF VALUATION**

The market value of a property is the amount the property would have realised if sold on the date of valuation in the open market by a willing seller to a willing buyer.

### **29. VALUATION OF PROPERTY IN SECTIONAL TITLE SCHEMES**

When valuing a property which is subject to a sectional title scheme, the valuer must determine the market value of each sectional title unit in the scheme.

### **30. SUPPLEMENTARY VALUATION**

A municipality must regularly, but at least once a year, update its valuation roll by causing a supplementary valuation roll to be prepared, or the valuation roll itself to be amended.

### **32. ENFORCEMENT / IMPLEMENTATION**

This policy has been approved by Municipal Council on 31 May 2018.

### **33. LEGAL REQUIREMENTS**

A paraphrase and in some instances an abridgement of the key requirements of the Local Government: Property Rates Act no. 6 of 2004 is attached as an Addendum "A" to this policy.

### **33. SHORT TITLE**

This policy is the **Property Rates Policy** for the **Bitou Local Municipality**

## **ADDENDUM "A"**

### **LEGAL REQUIREMENTS:**

### **CAUTIONARY NOTE**

This paraphrase is not meant to cover the complete contents of the Property Rates Act, but is focused rather on those requirements, which are immediately relevant to a municipality's rates policy. Thus, the section dealing with transitional arrangements has been omitted, and so have most of the provisions dealing with the valuation process.

### **SECTION 2: POWER TO LEVY RATES**

A metropolitan or local municipality may levy a rate on property in its municipal area. A municipality must exercise its power to levy a rate on property subject to Section 229 and any other applicable provisions of the Constitution, the provisions of the present Act, the regulations pertaining thereto and the rates policy it must adopt in terms of this Act.

### **SECTION 3: ADOPTION AND CONTENTS OF RATES POLICY**

Logical order of processes for implementation of the Act.

- (a) Rates policy development and adoption including categorization of properties for (c) the purpose of compiling the valuation roll.

(b) Compilation of the valuation roll in order to determine the market value of properties so as to inform the determination of a reasonable amount in a Rand to be determined in respect of the various categories of ratable property taking into account the budget.

(c) Tabling of the municipal budget accompanied by an adopted rates policy in terms of section 3(2) of the Act.

(2) Section 3(3)(e) of the Act must be complied with by providing a general description of that which may be foregone by the municipality without quantifying it in Rand & Cent. The council of a municipality must adopt a policy consistent with the present Act on the levying of rates on rateable property in the municipality.

Such a rates policy will take effect on the effective date of the first valuation roll prepared by the municipality in terms of the present Act, and such policy must accompany the municipality's budget for the financial year concerned when that budget is tabled in the council in terms of the requirements of the Municipal Finance Management Act.

A rates policy must:

- treat persons liable for rates equitably;
- determine the criteria to be applied by the municipality if it:
  - levies different rates for different categories of property;
  - exempts a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate on their properties;
  - grants to a specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rate payable in respect of their properties; or
  - increases rates;
- determine or provide criteria for the determination of categories of properties for the purposes of levying different rates, and categories of owners of properties, or categories of properties, for the purpose of granting exemptions, rebates and reductions;
- determine how the municipality's powers in terms of Section 9 must be exercised in relation to properties used for multiple purposes;
- identify and quantify in terms of cost to the municipality and any benefit to the local community, exemptions, rebates and reductions; exclusions; and rates on properties that must be phased in in terms of Section 21;
- take into account the effect of rates on the poor and include appropriate measures to alleviate the rates burden on them;
- take into account the effect of rates on organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax reductions because of those activities, in the case of property owned and used by such organisations for those activities;
- take into account the effect of rates on public service infrastructure;
- allow the municipality to promote local, social and economic development; and
- identify, on a basis as may be prescribed, all ratable properties in the municipality that are not rated in terms of Section 7.

When considering the criteria to be applied in respect of any exemptions, rebates and reductions on properties used for agricultural purposes, a municipality must take into account:

- the contribution of agriculture to the local economy;
- the extent of which agriculture assists in meeting the service delivery and development obligations of the municipality; and
- the contribution of agriculture to the social and economic welfare of farm workers.
- Any exemptions, rebates or reductions granted and provided for in the rates policy adopted by a municipality must comply and be implemented in accordance with a national framework that may

be prescribed after consultation with organized local government. No municipality may grant relief in respect of the payment of rates to:

- a category of owners of properties, or to the owners of a category of properties, other than by way of an exemption, rebate or reduction as provided for in its rates policy and granted in terms of Section 15 of the present Act; or
- the owners of properties on an individual basis.

#### **SECTION 4: COMMUNITY PARTICIPATION**

Before a municipality adopts its rates policy, the municipality must follow the process of community participation envisaged in Chapter 4 of the Municipal Systems Act; and comply with the following requirements, as set out below. The municipal manager of the municipality must:

- conspicuously display the draft rates policy for a period of at least 30 days at the municipality's head and satellite offices and libraries, and, if the municipality has an official website or a website available to it, on that website as well; and
- publish in the media a notice stating that a draft rates policy has been prepared for submission to the council, and that such policy is available at the various municipal offices for public inspection, and (where applicable) is also available on the relevant website; and
- inviting the local community to submit comments and representations to the municipality within a period specified in the notice, but which period shall not be less than 30 days. The council must take all comments and representations made to it into account when it considers the draft rates policy.

#### **SECTION 5: ANNUAL REVIEW OF RATES POLICY**

The council must annually review, and – if needed – amend its rates policy. Any amendments to the rates policy must accompany the municipality's annual budget when it is tabled in the council in terms of the Municipal Finance Management Act.

When the council decides to amend the rates policy, community participation must be allowed for as part of the municipality's annual budget process.

#### **SECTION 6: BY-LAWS TO GIVE EFFECT TO RATES POLICY**

A municipality must adopt by-laws to give effect to the implementation of its rates policy, and such by-laws may differentiate between different categories of properties, and different categories of owners of properties liable for the payment of rates.

#### **SECTION 7: RATES TO BE LEVIED ON ALL RATEABLE PROPERTY**

When levying rates a municipality must levy such rates on all rateable property in its area, but it is nevertheless not obliged to levy rates on:

- properties of which the municipality itself is the owner;
- public service infrastructure owned by a municipal entity;
- rights registered against immovable property in the name of a person;
- properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure attributable to past racially discriminatory laws or practices.

The requirement to levy rates on all rateable properties does not prevent a municipality from granting exemptions or rebates on, or reductions in rates levied.

### **SECTION 8: DIFFERENTIAL RATES**

A municipality may in terms of the criteria set out in its rates policy levy different rates for different categories of rateable property, and these categories may be determined according to the:

- use of the property;
- permitted use of the property;

Categories of rateable property that may be determined include the following:

- residential properties
- industrial properties
- business and commercial properties
- agricultural properties
- mining properties
- properties owned by an organ of state and used for public service purposes
- public service infrastructure properties
- properties owned by public benefit organisations and used for any specific public benefit activities
- properties used for multiple purposes.
- Any other category of property as may be determined by the Minister of Finance, by notice in the Gazette

### **SECTION 9: PROPERTIES USED FOR MULTIPLE PURPOSES**

A property used for multiple purposes must, for rates purposes, be assigned to a category determined by the municipality for properties used for:

- a purpose corresponding with the permitted use of the property, if the permitted use of the property is regulated;
- a purpose corresponding with the dominant use of the property; or
- multiple purposes, as specified in Section 8 above.

A rate levied on a property assigned to a category of properties used for multiple purposes must be determined by:

- apportioning the market value of the property, in a manner as may be prescribed to the different purposes for which the property is used; and
- applying the rates applicable to the categories determined by the municipality for properties used for those purposes to the different market value apportionments.

### **SECTION 10: LEVYING OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES**

A rate on a property, which is subject to a sectional title scheme, must be levied on the individual sectional title units in the scheme, and not on the property on a whole.

### **SECTION 11: AMOUNT DUE FOR RATES**

A rate levied by a municipality on property must be stated as an amount in the rand:

- on the market value on the property;
- in the case of public service infrastructure, on the market value of the public service infrastructure less 30% of that value;

- in the case of property to which Section 17(1)(h) applies, on the market value of the property less the amount stated in that section (note the section concerned deals with the requirement that the first R15 000 of the market value of certain properties is not rateable).

#### **SECTION 12: PERIODS FOR WHICH RATES MAY BE LEVIED**

In levying rates, a municipality must levy the rate for a financial year. A rate lapses at the end of the financial year for which it was levied.

The levying of rates forms part of the municipality's annual budget process, and the municipality must therefore annually, at the time of its budget process, review the amount in the rand of its current rates in line with the annual budget for the next financial year.

#### **SECTION 13: COMMENCEMENT OF RATES**

A rate becomes payable as from the start of the particular financial year, or if the municipality's annual budget is not approved by the start of the financial year, as from such later date when the municipality's annual budget, including the resolution levying the rates, is approved by the provincial executive in terms of section 26 of the Municipal Finance Management Act.

#### **SECTION 14: PROMULGATION OF RESOLUTIONS LEVYING RATES**

A rate is levied by a municipality by a resolution passed by the council with a supporting vote of a simple majority of its members.

The resolution for levying the rates must be promulgated by publishing the resolution in the provincial gazette.

Whenever a municipality passes a resolution to levy rates, the municipal manager must, without delay, conspicuously display the resolution for a period of at least 30 days at the municipality's head and satellite offices and libraries, and if the municipality has an official website or a website is available to it, on that website as well; and advertise in the media a notice stating that the resolution levying the property rates has been passed by the council, and that the resolution is available at the municipality's head and satellite offices as so forth.

#### **SECTION 15: EXEMPTIONS, REDUCTIONS AND REBATES**

A municipality may in terms of the criteria, which it has set out in its rates policy:

- exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of the rate levied on their property; or
- grant to a specific category of owners, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties.
- In granting exemptions, reductions and rebates in respect of owners or categories of properties, a municipality may determine such categories in accordance with Section 8 of the Act, and when granting exemptions, reductions or rebates in respect of categories of owners of properties, such categories may include:
  - indigent owners;
  - owners dependent on pensions or social grants for their livelihood including owners of properties within the income group of pensions or social grants
  - owners temporarily without income;
  - owners of property situated within an area affected by a disaster or any other serious adverse social or economic conditions;
  - owners of residential properties with a market value lower than an amount determined by the municipality; and

- owners of agricultural properties who are bona fide farmers.

**The municipal manager must annually table in the council:**

- a list of all exemptions, reductions and rebates granted by the municipality during the previous financial year; and
- a statement reflecting the income, which the municipality has forgone during the previous financial year by way of such exemption, reductions and rebates, exclusions referred to in the Act, and the phasing in discount granted in terms of Section 21.

All exemptions, reductions and rebates projected for a financial year must be reflected in the municipality's annual budget for that year as income on the revenue side and expenditure on the expenditure side. In terms of the Constitution, a municipality may not exercise its power to levy rates on property in a manner that materially and unreasonably prejudices national economic policies, economic activities across its boundaries, or the national mobility of goods, services, capital and labour.

If a rate on a specific category of properties, or a rate on a specific category of owners of properties above a specific amount in the rand, is materially and unreasonably prejudicing any of the matters referred to above, the Minister of Provincial and Local Government may, by notice in the gazette, give notice to the relevant municipality that the rate must be limited to an amount in the rand specified in the notice.

**SECTION 17: OTHER IMPERMISSIBLE RATES (ABRIDGED)**

A municipality may not levy a rate on:

- the first 30% of the market value of public service infrastructure;
- any part of the seashore;
- any part of the territorial waters of the Republic;
- any islands of which the state is the owner;
- those parts of a special nature reserve, national park or nature reserve or national botanical garden which are not developed or used for commercial, business, agricultural or residential purposes;
- mineral rights;
- property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses 10 years from the date on which such beneficiary's title was registered in the office of the registrar of deeds;
- the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll to a category determined by the municipality for residential purposes or for properties used for multiple purposes, provided one or more components of the property are used for residential purposes;
- 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 and who officiates at services at that place of workshop.

(The remainder of this Section deals with situations where the various exemptions lapse).

**SECTION 18: EXEMPTION OF MUNICIPALITIES FROM PROVISIONS OF SECTION 17**

The municipality may apply in writing to the Minister for Provincial and Local Government to be exempted from applying the exemptions granted in respect of the first 30% of the market value of public infrastructure, the exemptions on nature reserves, national parks and national botanical gardens, the exemption on property belonging to land beneficiaries, and the exemption applying to the first R15 000 of the market value of residential and multiple used property. If the municipality can demonstrate that such

exclusions are compromising or impeding its ability or right to exercise its powers or perform its functions within the meaning of the Constitution.

#### **SECTION 19: IMPERMISSIBLE DIFFERENTIATION**

A municipality may not levy:

- different rates on residential properties (except where transitional arrangements apply or where some of the properties are newly rateable) as [provided for in terms of section 11(i)(b) and section 89 of the act supra.
- a rate on non-residential properties that exceeds a prescribed ratio to the rate on residential properties;
- rates which unreasonably discriminate between categories of non-residential properties; and
- additional rates, except as provided for in Section 22.

The municipality will comply with the ratios set by the Minister of Provincial and Local Government in concurrence with the Minister of Finance.

#### **SECTION 20: LIMITS ON ANNUAL INCREASES OF RATES**

The Minister of Provincial Local Government may, with the concurrence of the Minister of Finance and by notice in the gazette, set an upper limit on the percentage by which rates on properties or a rate on a specific category of properties may be increased. Different limits may be set for different kinds of municipalities or different categories of properties.

The Minister may, on written application by a municipality, and on good cause shown, exempt such municipality from a limit set in terms of the foregoing. This section must be read with section 43 of the Municipal Finance Management Act

#### **SECTION 21: COMPULSORY PHASING IN OF CERTAIN RATES**

A rate levied on newly rateable property must be phased in over a period of three financial years. Similarly, a rate levied on property owned by a land reform beneficiary must, after the exclusion period of ten years has lapsed, be phased in over a period of three financial years.

A rate levied on a newly rateable property owned and used by organisations conducting specified public benefit activities must be phased in over a period of four financial years.

The phasing in discount on a property must:

- in the first year, be at least 75% of the rate for that year otherwise applicable to that property;
- in the second year, be at least 50% of the rate for that year otherwise applicable to that property, and;
- in the third year, be at least 25% of the rate for that year otherwise applicable to that property.

No rate may be levied during the first year on newly rateable property owned and used by organisations conducting specified public benefit activities. Thereafter the phasing in discount shall apply as for other newly rateable property except that the 75% discount shall apply to the second year, the 50% to the third year, and the 25% to the fourth year.

A rate levied on newly rateable property may not be higher than the rate levied on similar property or categories of property in the municipality-



## 18. RATE INCREASES

1. The municipality shall consider increasing rates annually during the budget process taking into account the following criteria:

- Priorities of the municipality reflected in its Integrated Development Plan (IDP)
- The revenue needs of the municipality
- The need for management of rates shocks
- Affordability of rates to ratepayers

Rates increases will be used to finance the increase in operating costs of community and subsidised services.

Relating to community and subsidised services the following annual adjustments will at least be made:

- (i) All salary and wage increases as agreed at the National Bargaining Council
- (ii) An inflation adjustment for general expenditure, repairs, maintenance, and contributions to funds, **and**
- (iii) Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.

Extraordinary expenditure not foreseen during the previous budget period and approved by the council during a budget review process will be financed by an increase in property rates.

All increases in the property rates will be communicated to the local community in terms of the council's policy on community participation.

The Minister may, with the concurrence of the Minister of Finance and by notice in the Gazette, set an upper limit on the percentage by which rates on property categories or a rate on a specific category of properties may be increased; or the total revenue derived from rates on all property categories or a rate on a specific category of properties may be increased.

## 19. DISREGARDED ITEMS FOR VALUATION PURPOSES

The following must not be taken into account in determining the market value of a property:

- (i) Any building or other immovable structure under the surface of the property which is the subject matter of any mining authorization or mining right defined in the Mineral and Petroleum Resources Development Act, 2002 (Act no 28 of 2002)
- (ii) the value of any equipment or machinery which, in relation to the property concerned, is immovable property, excluding—
  - (a) a lift
  - (b) an escalator
  - (c) an air-conditioning plant
  - (d) fire extinguishing apparatus
  - (e) a water pump installation for a swimming pool or for irrigation or domestic purposes; and
  - (f) any other equipment or machinery that may be prescribed; and
- (iii) an unregistered lease in respect of the property
- (iv) in respect of property used for agricultural purposes the value of any annual crops or growing timber on the property that have yet not been harvested at the date of valuation.

**SECTION 24: PROPERTY RATES PAYABLE BY OWNERS**

The owner of the property must pay a rate levied by a municipality on property.

Joint owners of a property are jointly and severally liable for the amount due for rates on that property.

In the case of agricultural property owned by more than one owner in undivided shares, the municipality must consider whether in the particular circumstances it would be more appropriate for the municipality to hold any one of the joint owners liable for all rates levied in respect of the agricultural property, or to hold any joint owner only liable for that portion of the rates levied on the property that represent that joint owner's undivided share in the agricultural property.

**SECTION 25: PAYMENT OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES**

The rate levied by a municipality on a sectional title unit is payable by the owner of the unit. The municipality may not recover the rate on such sectional title unit, or any part of such rate, from the body corporate controlling the sectional title scheme, except when the body corporate itself is the owner of any specific sectional title unit.

**SECTION 26: METHOD AND TIME OF PAYMENT**

A municipality must recover a rate on a monthly basis, or less often as may be prescribed in terms of the Municipal Finance Management Act, or annually, as may be agreed to with the owner of the property.

If the rate is payable in installments, it must be paid on or before a date in each period determined by the municipality.

***Payment of rates may be deferred but only in special circumstances***

**SECTION 27: ACCOUNTS TO BE FURNISHED**

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

- the amount due for rates payable;
- the date on or before which the amount is payable;
- how the amount was calculated;
- the market value of the property;
- if the property is subject to any compulsory phasing in discount in terms of Section 21, the amount of the discount, and
- if the property is subject to any additional rate in terms of Section 22, the amount due for additional rates.

The person liable for payment of the rates remains liable for such payment whether or not such person has received a written account from the municipality. If the person concerned has not received a written account, that person must make the necessary enquiries from the municipality.

**SECTION 28: RECOVERY OF RATES IN ARREARS FROM TENANTS AND OCCUPIERS**

If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined for payment by the municipality, the municipality may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after it has served a written notice on such tenant or occupier.

The amount that the municipality may recover from the tenant or occupier is limited to the amount of the rent or other money due or payable, but not yet paid, by such tenant or occupier to the owner of the property.

**SECTION 29: RECOVERY OF RATES FROM AGENTS**

A municipality may recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the municipality, but only after the municipality has served a written notice on the agent in this regard.

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

**SECTION 30: GENERAL VALUATION AND PREPARATION OF VALUATION ROLLS**

A municipality intending to levy a rate on property must cause a general valuation to be made of all properties in the municipality, and must prepare a valuation roll of all properties in terms of such valuation.

All rateable properties in a municipal area must be valued during such general valuation, including all properties fully or partially excluded from rates in terms of Section 17 of Act. However, if the municipality does not intend to levy rates on its own property, on public service infrastructure owned by a municipal entity, on rights in properties, and 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 racial discrimination, the municipality is not obliged to value such properties as part of the valuation process.

A municipality may also apply to the Minister for exemption from the obligation to value properties excluded from rates in terms of Section 17 if the municipality can demonstrate that the valuation of such properties is too onerous for it, given its financial and administrative capacity.

Properties, which have not been valued, because of any of the foregoing considerations, must nevertheless be included in the valuation roll.

**SECTION 31: DATE OF VALUATION**

For the purposes of a general valuation, a municipality must determine a date that may be not more than 12 months before the start of the financial year in which the valuation roll is to be first implemented.

The general valuation must reflect the market values of properties in accordance with market conditions, which apply as at the date of the valuation, and in accordance with any other applicable provisions of the present Act.

**SECTION 32: COMMENCEMENT AND PERIOD OF VALIDITY OF VALUATION ROLLS (ABRIDGED)**

A valuation roll takes effect from the start of the financial year following completion of the public inspection period required by the present Act, and remains valid for that financial year or for one or more subsequent financial years, as the municipality may decide, but in total not for more than four financial years.

**Section 32(2) provides for the extension of the period of validity of the valuation roll by the MEC for Local Government, but only up to a period of five financial years, and only in specified circumstances.**

**SECTION 46: GENERAL BASIS OF VALUATION (ABRIDGED)**

The market value of a property is the amount the property would have realised if sold on the date of valuation in the open market by a willing seller to a willing buyer.

**SECTION 47: VALUATION OF PROPERTY IN SECTIONAL TITLE SCHEMES**

When valuing a property, which is subject to a sectional title scheme, the valuer must determine the market value of each sectional title unit in the scheme.

**SECTION 77: GENERAL**

A municipality must regularly, but at least once a year, update its valuation roll by causing a supplementary valuation roll to be prepared, or the valuation roll itself to be amended.

**SECTION 80: CONDONATION OF NON-COMPLIANCE WITH TIME PERIODS:**

- (1) The MEC for local government in a province may, on good cause shown, and on such conditions as the MEC may impose, condone any non-compliance with a provision of this Act requiring any act to be done within a specified period or permitting any act to be done only within a specific period.
- (2) Non-compliance with section 21, 23 or 32 may not be condoned in terms of subsection (1)
- (3) The powers conferred in terms of this section on an MEC for local government may only be exercised within a framework as may be prescribed.

**SECTION 81: PROVINCIAL MONITORING:**

- (1) The MEC for local government in a province must monitor whether municipalities in the province comply with the provisions of this Act
- (2) If the municipality fails to comply with the provisions of this Act, the MEC may take any appropriate steps to ensure compliance, including proposing an intervention by the provincial executive in terms of section 139 of the Constitution.

**SECTION 87: APPLICATION WHEN IN CONFLICT WITH OTHER LAWS**

This Act prevails in the event of any inconsistency between this Act and any other legislation regulating the levying of municipal rates

**AMMENDMENT OF SECTION 14**

1. Section 14 is amended by the deletion of Subsection 14(2)(k) (Owners of agricultural properties use for game farming and hunting)