

EMFULENI LOCAL MUNICIPALITY



PROPERTY RATES POLICY

You Belong, We Care!

1 July 2011 to 30 June 2012



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PREAMBLE

WHEREAS the Constitution of the Republic of South Africa, 1996 empowers the Council to impose rates on property in their Municipal area;

WHEREAS section 3 of the Local Government: Municipal Property Rates Act, 2004 (No 6 of 2004) determines that a municipality must adopt a rates policy in accordance to the determination of the Act;

AND WHEREAS the Council must, in terms of section 5(1) of the Act, annually review, and may, if necessary, amend the rates policy.

This policy does not contain all provisions of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) but lists the key provisions that the municipality deems necessary for ratepayers to be aware of so that they fully understand rating issues that will affect them and therefore must be read in conjunction with, and is subject to the stipulations of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) and any regulations promulgated in terms thereof from time to time.

NOW THEREFORE the following policy on the levying of property tax is adopted.

1. OBJECTIVE

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, Act no. 6 of 2004 including any regulations promulgated in terms of that Act.

The objective of this policy is also to ensure that-



- all persons liable for property rates are treated equal equitably and reasonably;
- rates are levied in accordance with the market value of the property;
- the rate will be based on the value of all rateable property and the amount required by the municipality to fulfil its developmental responsibility as well as to balance the operational budget, taking into account the surplus obtained from the trading and economical services and the amounts required to cover the costs of exemptions, reductions and rebates that the municipality approves from time to time;
- income from rates will be used to finance community and subsidized services and not trading or economical services and
- to optimally safeguard the income base of the municipality through exemptions, reductions and rebates that is reasonable and affordable.

2. DEFINITIONS

(1) All the definitions shall have the same interpretation as defined in the Local Government: Municipal Property Rates Act, 2004 (No 6 of 2004) including definitions in regulations made in terms of section 85 of the Act.

(2) Definitions

“**Act**” means the Local Government: Municipal Property Rates Act, No 6 of 2004 and includes the regulations made in terms of Section 83 of the Act;

“**agricultural purposes**” means in relation to the use of a property excluding the use of a property for the purpose of eco-tourism or the trading in or hunting of game;

“**bona fide farmer**” means a person that conducts farming activities and such land is used *bona fide* and exclusively by the owner or occupier for agricultural purposes;

“**business and commercial property**” – means;

(a) property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the uses of which is incidental to such activity; or

(b) property on which the administration of the business of private or public entities take place;

“**certificate of occupancy**” means the certificate issued by the Council in terms of the National Building Regulations and Building Standards Act, 103 of 1977;

“**chief financial officer**” means a person designated in terms of section 80(2)(a) of the Local Government: Municipal Finance Management Act 56 of 2003;



“**Constitution**” means the Constitution of the Republic of South Africa, Act No 108 of 1996;

“**consent use**” means the purpose for which land may lawfully be used and on which buildings may be erected and used only with the consent of the Council;

“**core family**” means a couple, irrespective of gender (whether married or not), with or without children and/or the parents of either;

“**Council**” means-

- a) the Emfuleni Local Municipality established in terms of as Section 12 of the Local Government: Municipal Structures Act, 117 of 1998, as amended, exercising its legislative and executive authority through its Municipal Council; or
- b) its successor in title; or
- c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this policy has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Systems Act,
- d) in respect of ownership of property, rateability and liability for rates, a service provider fulfilling a responsibility assigned to it,
- e) through a service delivery agreement in terms of section 81(2) of the Systems Act or any other law, as the case may be;

“**due date**” means the date specified as such on a municipal account dispatched from the offices of the responsible officer for any rates payable and which is the last day allowed for the payment of such rates;

“**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 by the Municipality in terms of Section 15 of the Act;

“**dwelling**” means a house designed to accommodate a single core family, including the normal outbuildings associated therewith;

“**farm property**” means a property that is used productively for farming purposes, either on a full-time or a part-time basis, regardless of whether or not agriculture forms the principal source of income;

“**farm property not used for any purpose**” – means agricultural property which is not used for farming purpose, regardless of whether such portion of



such property has a dwelling on it which is used as a dwelling;

“financial year” means any period commencing on 1 July of a calendar year and ending on 30 June of the succeeding calendar year;

“Industrial property” – means property used for a branch of trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts such a large scale that capital and labour are significantly involved, and includes any office or other accomodation on the same property, the use of which is incidental to such activity;

“land tenure right” means an old order right or a new order right as defined in section 1 of the Communal Land Rights Act, 2004 (Act 11 of 2004);

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

“multiple-purpose property” refers to property where there is a combination of different categories of property on the same registered property.

“Municipal Systems Act” means the Local Government: Municipal Systems Act, No 32 of 2000, as amended;

“Municipality” means the Emfuleni Local Municipality;

“owner” means:

- a) in relation to a property referred to in paragraph (a) of the definition of ‘property’, 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’, a person in whose name the right is registered;
- c) in relation to a land tenure right referred to in paragraph (c) of the definition of ‘property’, a person in whose name the right is registered or to whom it was granted in terms of legislation; and
- d) in relation to public service infrastructure referred to in paragraph (d) of the definition of ‘property’, the organ of state that owns or controls that public service infrastructure; provided that a person mentioned below may for the purpose of the Act be regarded by a municipality as the owner of a property in the mentioned circumstances:

provided that a person mentioned below may for the purposes of this Act be regarded by the municipality as the owner of a property in then following cases:

- (i) a trustee in the case of a property registered in the name of the trustee 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 an estate in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a legal person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it to the lessee;
- (viii) a buyer, in the case of a property that has been sold by the Municipality and of which possession has been given to the buyer pending registration of ownership in the name of the buyer; or an occupier of a property that is registered in the name of the Municipality.

“municipal property” means property owned, vested or under the control and management of the Council or its service provider in terms of any applicable legislation;

“pensioners” – means retired property owners who reached the age of 60 years

“property” means -

- a) immovable property situated within the boundaries of the municipality registered in the name of a person including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- d) public service infrastructure;

“property not used for any purpose” means undeveloped land within a proclaimed township or a land development area and will be rated as property not used for any purposes until a certificate of occupancy is issued by the Council;

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

“public benefit property” means property owned by public benefit organisations and used for any specified public benefit activity listed in item 1



(welfare and humanitarian), item 2 (health care), and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act.

“public service infrastructure” means publicly controlled infrastructure of the following kinds:

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

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

“ratepayer” means any owner of rateable property as well as any owner of a rateable property held under sectional title, situate within the area of jurisdiction of the Council;

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

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



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

“residential property” – means improved property that: -

- a) is used predominantly (60% or more) for residential purposes, including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes;
- b) is a unit registered in terms of the Sectional Title Act and is used predominantly for residential purposes;
- c) is owned by a share-block company and is used predominantly for residential purposes;
- d) is a residence used for residential purposes situated on a property used for educational purposes;
- e) is property which is included as residential in a valuation list in terms of section 48(2)(b) of the Act;
- f) are retirement schemes and life right schemes used predominantly (60% or more) for residential purposes;

vacant properties (empty stands), guesthouses, block of flats utilize for income generating purposes, hotels, hostels and accommodation establishments, irrespective of their zoning or intended use, have been specifically excluded from this property category;

“smallholding” refers to property, whether improved by the construction of a dwelling or not, which is 10 hectares and less and not large enough to support a commercially viable farming operation, but able to provide a subsistence level of output to the owner of the property.

“school” means a school as defined in the South African Schools Act, Act 84 of 1996;

“service provider” means a service provider contemplated in paragraph (d) of the definition of "Council";

“State” means the National Government and the Gauteng Provincial Government;

“State trust land” means land owned by the state-

- a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- b) over which land tenure rights were registered or granted; or
- c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act 22 of 1994);



"technical and other colleges" means a public college and a private college as contemplated in the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006);

"town planning scheme" means -

- a) a town-planning scheme, which is in operation as contemplated in the Town Planning and Townships Ordinance or;
- b) any scheme or document which in terms of any applicable legislation is legally in operation and records or sets out, by means of maps, schedules or any other document, the development rights specifying the purpose for which land may lawfully be used or any buildings may be erected, or both;

"university" means any university and technicon as defined in section 1 of the Higher Education Act, 1997 (Act No. 101 of 1997);

"zoning" means the purpose for which land may lawfully be used or on which buildings may be erected or used, or both, as contained in an applicable town planning scheme and "zoned " has a corresponding meaning. Where a property carries multiple zoning rights, the categorisation of such property will be 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 or if not used according to zoning; and applying the rates applicable to the categories determined by the Municipality for properties used for those purposes to the different market value apportionments.

3. PURPOSE OF THE POLICY

The purpose of the policy is:-

- (1) To comply with the provisions as set out in section 3 of the Act.
- (2) To determine criteria to be applied for:-
 - a) levying differential rates for different categories of properties;
 - b) exemptions;
 - c) grants, rebates and reductions 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 categories 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 to the municipality in terms of cost and benefit to the community:-
 - a) exemptions, rebates and reductions;
 - b) exclusions; and
 - c) rates on properties that must be phased in;
- (6) Take into account the effect of rates on the poor;
- (7) Take into account the effect of rates on organisations conducting public benefit activities;
- (8) Take into account the effect of rates on public service infrastructure;
- (9) Determine measures to promote local economic and social development and
- (10) Identify all rateable property that is not rated.

4. POLICY PRINCIPLES

- (1) 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 and supplementary valuation roll. Rateable property shall include any rights registered against such property, with the exception of a mortgage bond.
- (2) The Council pledges itself to limit each annual rates increase as far as practicable so that the Council does not overburden its ratepayers.
- (3) 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.
- (4) 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 or doubtful debts, not to exceed 25% (twenty five percent) of the municipality's aggregate budgeted net revenues for the financial year concerned.
- (5) Other policy principles:
 - a) All persons liable for property rates will be treated equitably and reasonably;
 - b) Rates will be levied in proportion to the market value of the property;
 - c) The rates levied will be based on the market 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 cover the cost of exemptions, rebates and grants in-aid of rates as approved by Council from time to time;
- d) 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;
 - e) Profits on trading and economic services may be used to subsidise community and subsidised services;
 - f) 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;
 - g) The income base of the municipality will be protected at all costs by limiting exemptions, rebates and reductions and
 - h) Rates are levied in accordance with the Act as an amount in the Rand based on the market value of all rateable property as reflected in the valuation roll and supplementary valuation rolls, as contemplated in Chapters 6 and 8, respectively, of the Act.
- (6) The above principals also ensure that the Council does not overburden its ratepayers. This will also ensure that rates charged to property owners will be affordable. In order for rates not to be a burden on the poor Council will endeavour to provide for rebates for the following categories (except for the exclusion of the first R15 000 of the market value of properties used for residential purposes assigned in the valuation roll and supplementary valuation rolls of a category determined by the municipality for residential properties; or for properties used for multiple purposes, provided one or more components of the property are used for residential purposes):
- (7) The rebates will be determined annually during the budget process and should be affordable and cost efficient.

5. CLASSIFICATION OF SERVICES AND EXPENDITURE

- (1) The Chief Financial Officer shall, subject to the guidelines provided by the National Treasury and Mayoral Committee of the Council, make provision for the following classification of services:-
- a) Trading services**
 - (i) Water.
 - (ii) Electricity.
 - (iii) Holiday resorts.
 - b) Economic services**
 - (i) Refuse removal.
 - (ii) Sewerage disposal.
 - c) Community services**
 - (i) Air pollution.



- (ii) Fire fighting services.
- (iii) Local tourism.
- (iv) Municipal planning.
- (v) Municipal public works, only in respect of the needs of municipalities in the discharge of their responsibilities and to administer functions specially assigned to them under the Constitution or any other law.
- (vi) Storm water management system in built-up areas.
- (vii) Trading regulations.
- (viii) Fixed billboards and the display of advertisements in public places.
- (ix) Cemeteries.
- (x) Control of public nuisances.
- (xi) Control of undertakings that sell liquor to the public.
- (xii) Township development.
- (xiii) Facilities for accommodation, care and burial of animals.
- (xiv) Fencing and fences.
- (xv) Licensing of dogs.
- (xvi) Licensing and control of undertakings that sell food to the public.
- (xvii) Local amenities.
- (xviii) Local sport facilities.
- (xix) Municipal parks and recreation.
- (xx) Municipal roads.
- (xxi) Noise pollution.
- (xxii) Pounds.
- (xxiii) Public places.
- (xxiv) Street trading/street lighting.
- (xxv) Traffic and parking.
- (xxvi) Building control.
- (xxvii) Licensing of motor vehicles and transport permits.
- (xxviii) Licences – Drivers and learners including renewal of
- (xxix) Nature reserves.

d) Subsidised services

- (i) Health and ambulance.
- (ii) Libraries and museums.
- (iii) Proclaimed roads.

- (2) Trading and economic services must be ring fenced and financed from service charges while community and subsidised services will be financed from rates.

Categorisation of expenditure

- (3) Expenditure will be classified in the following categories:-
- (i) Salaries, wages and allowances.
 - (ii) Bulk purchases.
 - (iii) General expenditure.
 - (iv) Repairs and maintenance.



- (v) Capital charges (interest and redemption)/depreciation.
- (vi) Contribution to fixed assets.
- (vii) Contribution to funds-
 - (a) doubtful debts.
 - (b) working capital; and
 - (b) statutory funds.
- (viii) Contribution to reserves.
- (ix) Gross expenditure.
- (x) Less charge-out.
- (xi) Net expenditure.
- (xii) Income.
- (xiii) Surplus/Deficit.

Cost Centres

- (4) Cost centres will be created to which the costs associated with providing the service can be allocated-
 - (i) by Department;
 - (ii) by Section/service; and
 - (iii) by Division/service.

- (5) The subjective classification of expenditure each with a unique vote will be applied to all cost centres.

6. CATEGORIES OF PROPERTY

- (1) The Council may levy different rates to different categories of rateable property. All rateable property will be classified in a category and will be rated based on the use of the property. For purposes of levying differential rates based on the use or permitted use of the properties in terms of section 8(1)(b) read with sections 3(3)(b) and 3(3)(c) of the Act, the following categories (including clarification of category) of properties are determined:

| Reference no | Category | Clarification |
|--------------|--|--|
| 1. | Residential properties. | All properties including farm, small holdings 10 hectares and less as well as sectional title properties that are used for residential purposes. |
| 2. | Residential properties not used for any purpose. | All properties zoned or the permitted use is for residential purposes but is undeveloped properties within a proclaimed township or a land development area. |



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| 3. | Business and commercial properties. | All properties including farm, small holdings 10 hectares and less as well as sectional title properties used for business and or commercial purposes. |
| 4. | Business and commercial properties not used for any purpose. | All properties zoned or the permitted use is for business and or commercial purposes but is undeveloped properties within a proclaimed township or a land development area. |
| 5. | Industrial properties. | All properties including farm, small holdings 10 hectares and less as well as sectional title properties used for industrial purposes. |
| 6. | Industrial properties not used for any purpose. | All properties zoned or the permitted use is for industrial purposes but is undeveloped properties within a proclaimed township or a land development area. |
| 7. | Farm properties used for agricultural purposes. | All farm properties used for bona fide farming and agricultural purposes. |
| 8. | Farm properties not used for any purpose. | All farm properties not used for bona fide farming and agricultural purposes. |
| 9. | Farm properties used for business and commercial purpose. | All farm properties that are used for business and or commercial purposes. |
| 10. | Farm properties used for industrial purpose. | All farm properties that are used for industrial purposes. |
| 11. | Farm properties used for residential Purpose. | All farm properties, small holdings 10 hectares and less used for residential purposes. |
| 12. | Small holdings used for agricultural purpose. | All small holdings used for bona fide farming and agricultural purposes. |
| 13. | Small holdings not used for any purpose. | All small holdings 10 hectares and less that are undeveloped properties |
| 14. | Small holdings used for business and commercial purpose. | All small holdings that are used for business and commercial purposes. |
| 15. | Small holdings used for industrial purpose. | All small holdings that are used for industrial purposes. |



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| 16. | Small holdings used for residential purpose. | All small holdings 10 hectares and less that are used for residential purposes. |
| 17. | State-owned properties. | All properties owned by the Provincial and or National Government or an organ of state, excluding all properties that falls under Public Benefit Organisation Properties. |
| 18. | State-owned properties not used for any purpose. | All properties owned by the Provincial and or National Government or an organ of state not used for any purposes. |
| 19 | Protected areas. | All properties that are or have been listed in the register referred to in section 10 of the Protected Areas Act. |
| 20. | Municipal properties. | All properties of which the Municipality is the owner or vested in the Council. |
| 21. | Public Service Infrastructure. | All properties as define per definition in the Act. |
| 22. | Public benefit Properties | These categories of properties and or owners of properties are deemed to be not-for-gain institutions or organisations registered in the name of an institution or organization and contribute services or benefits to the community. These institutions or organisations must be registered as NPO's under the NPO Act, 71 of 1997, as amended Property used for parking facilities, camping sites not operating for gain used by communities. |
| 23. | Servitudes. | Right belonging to one person, in property of another, entitling the former either to exercise some right of benefit in the property, or to prohibit the latter from exercising one or other of his normal rights of ownership. |
| 24. | National monuments. | Properties on which National monuments are proclaimed. |
| 25. | Township title properties. | Unregistered erven, properties of which the certificate of registered title has not been issued. |
| 26. | State trust land. | As defined by the Act. |



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| 27. | Communal land. | A property belonging to a land reform beneficiary or his or heirs provided that this exclusion lapses 10 years from the date which such beneficiaries title was registered in the office of the registrar of deeds. |
| 28. | Exclusive use area used for business purposes | Exclusive use right registered against immovable property that is registered in the name of a person where the main component is used for business purposes. |
| 29. | Exclusive use area used for residential purposes | Exclusive use right registered against immovable property that is registered in the name of a person where the main component is used for residential purposes. |
| 30. | Multipurpose property. | Properties where there is a combination of different categories of property on the same registered property and where the market value of each is apportioned on the valuation roll. |
| 31. | Place of worship and or vicarage | Properties registered in the name of and used primarily as a place of worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at service at that place of worship. Property used for parking facilities, camping sites not operating for gain used by religious organisations or communities. |

- (2) Owners of properties who are of the view that the property has been categorized incorrectly shall be required to apply to the Council in writing for the category to be reviewed. The Council has the right to call for documentary evidence and/or request the municipal valuer to conduct a physical inspection of the property in terms of such application and only the municipal valuer can make changes to valuation roll.



7. RATE RATIOS

- (1) Based on the latest published rate ratios the following rate ratios shall be applicable on the general property rates levy set by Council for the 2011/2012 financial year:

| Reference no | Category | Rate ratio |
|--------------|--|------------|
| 1. | Residential properties. | 1:1 |
| 2. | Residential properties not used for any purpose. | 1:2 |
| 3. | Business and commercial properties. | 1:2 |
| 4. | Business and commercial properties not used for any purpose. | 1:3 |
| 5. | Industrial properties. | 1:2.5 |
| 6. | Industrial properties not used for any purpose. | 1:3.5 |
| 7. | Farm properties used for agricultural purpose. | 1:0.25 |
| 8. | Farm properties not used for any purpose. | 1:0.25 |
| 9. | Farm properties used for business and commercial purpose. | 1:2 |
| 10. | Farm properties used for industrial purpose. | 1:2.5 |
| 11. | Farm properties used for residential purpose. | 1:1 |
| 12. | Small holdings use for agricultural purpose. | 1:0.25 |
| 13. | Small holdings not used for any purpose. | 1:3 |
| 14. | Small holdings used for business and commercial purpose. | 1:2 |
| 15. | Small holdings used for industrial purpose. | 1:2.5 |
| 16. | Small holdings used for residential purpose. | 1:1 |



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| 17. | State-owned properties. | 1:2 |
| 18. | State-owned properties not used for any purpose. | 1:3 |
| 19. | Protected areas. | 1:0 |
| 20. | Municipal properties. | 1:2 |
| 21. | Public Service Infrastructure. | 1:0.25 |
| 22. | Properties owned by Public benefit Organisations [Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962). | 1:0.25 |
| 23. | Servitudes. | 1:0 |
| 24. | National monuments. | 1:0 |
| 25. | Township title properties. | 1:0 |
| 26. | State trust land. | 1:0.25 |
| 27. | Communal land. | 1:0 |
| 28. | Exclusive use area used for business purposes | 1:2 |
| 29. | Exclusive use area used for residential purposes | 1:1 |
| 30. | Multipurpose property. | Per category of use. |
| 31. | Place of worship and or vicarage. | 1:0 |

(2) Above must be read together with section 6(1).

8. CATEGORIES OF OWNERSHIP FOR PURPOSES OF EXEMPTIONS, REBATES AND REDUCTIONS

The following categories of owners and the geographical area, as defined in the Act has been identified for the purpose of exemptions, rebates and reductions:

- (1) Household owners who are registered as indigents in terms of the adopted policy of Council.



- (2) Owners dependant on pension or a social grant for their livelihood;
- (3) Disabled and medically unfit owners;
- (4) Poor households;
- (5) Owners of residential properties with a market value lower than an amount determined by the Municipality;
- (6) Development of properties not use for any purpose;
- (7) Municipal owned property and
- (8) State owned property;

Whilst some categories of property and categories of owners are granted relief with regard to the payment of rates, no relief shall be granted in respect of the payment for rates to any category of owner of property or to owners of properties on an individual basis, and any relief granted shall only be by way of an exemption, rebate or reduction, as provided for in this Policy.

In imposing the rate in the rand for each annual operating budget component, the council shall grant exemptions, rebates and reductions to the categories of properties and categories of owners as highlighted in the policy, but the council reserves the right to amend these exemptions, rebates and reductions if the circumstances of a particular annual budget so dictate.

In granting exemptions, rebates and reductions to the categories of properties and categories of owners the Council recognize the following factors:

- (a) 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;
- (b) The need to accommodate indigents and less affluent pensioners & person's dependant on a nominal income due to medical incapacitation or other factors as may be determined by Council from time to time;
- (c) The services provided to the community by public service organizations;
- (d) 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;
- (e) The need to preserve the cultural heritage of the local community;
- (f) The need to encourage the expansion of public service infrastructure;
- (g) The indispensable contribution which property developers (especially In regard to commercial and industrial property development) make towards local economic development, and the continuing need to encourage such development and
- (h) The requirements of the Act .



9. LIABILITY FOR RATES

(1) Method and time of payment

Emfuleni Local Municipality will recover the rate levied in periodic instalments of equal amounts in twelve months. The instalment is payable on or before the 7th day of every month, following the month in which it has been levied or the due date as per municipal statement, whichever is the earlier. Interest will be charged on late payments and/or arrears at the prime bank lending rate plus at a percentage as determined by Council from time to time.

(2) Annual Payment Arrangements

Rate payers may choose to pay rates in one instalment annually on or before 7 October of each year. The property owner must notify the municipal manager or his/her nominee by no later than 30 June in any financial year, or such later date in the financial year as determined by the municipality, that he/she wishes to pay all rates in respect of such a property in annual instalments, after which such an owner shall be entitled to pay all rates in the subsequent financial year and all subsequent financial years annually until he/she withdraws this notice in similar manner.

Rates payable on an annual basis will be subject to a 5% discount if paid in full before or on 7 October of each year.

(3) 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.



(4) Clearance Certificate

All monies collected including any estimated amounts for the duration of the validation period of the clearance certificate are for the purpose of section 118 (1A) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended, or section 89 of the Insolvency Act, 1936 (Act 24 of 1936), as amended, deemed to be due and must be paid in order to facilitate the transfer of immovable property.

10. EXEMPTIONS, REBATES AND REDUCTIONS ON RATES

10.1 Exemptions

The following categories of property are exempted from rates:-

- a) The following types of property owned by or vested in the Council are exempt from rates:
 - (i) Public service infrastructure owned by the Council or a service provider, including Public service infrastructure vested in the Council.
 - (ii) Refuse tip sites;
 - (iii) Municipal burial grounds and adjacent public open space within the burial ground precinct and municipal crematoria;
 - (iv) Property used for the provision of public parks and zoned as Public open space and includes undeveloped municipal property which is for the purposes of this Policy deemed to be public open space;
 - (v) Property used for cultural, sporting and Recreational facilities other than property subject to a registered lease
 - (vi) Municipal housing schemes

10.2 Reductions

- a) Properties used for residential purposes
 - (i) In addition to the impermissible rates as referred to in section 17(1)(h) of the Act a further R135 000 reduction on the market value of a property will be granted.
- b) All properties categorized residential properties not used for any purpose
 - (i) A reduction on the first R40 00 of the market value of a property will be granted.



10.3 Rebates

In terms of section 15 of the Local Government: Municipal Property Rates Act, No. 6 of 2004 the following rebates are granted:-

- (a) All properties used for residential purposes:
The municipality grants an additional rebate, to be determined on an annual basis, to all residential properties. For the 2011/12 financial year the rebate is determined as 30%.
- (b) All state owned properties (excluding properties falling in the category for Public Benefit Organization properties) as defined in the Rates Policy.

The municipality grants an additional rebate, to be determined on an annual basis, to all state owned properties. For the 2011/12 financial year the rebate is determined as 20%.

- (c) Rebates to pensioners, disabled and/or medically unfit as well as poor households in respect of all properties used for residential purposes (Indigent households are addressed in Indigent Policy):-
- (i) A rebate based on the gross monthly income may be granted in addition to the rebates mentioned in (a) above to registered owners of residential properties who qualify according to the gross monthly household income of all persons normally residing on that property.
- (ii) To qualify for the rebate a property owner must:
- Be a natural person;
 - Be the registered owner of the property;
 - Occupy the property as his her normal residence on a full time basis;
 - Complete a prescribed application form obtainable from the Municipality.
- (iii) The following shall also apply:-
- If the residence is vacated or the applicant passes away or an applicant reaches the age of 60 during the year, the rebate shall be calculated pro rate as from such date;
 - Submission of following the documentation as proof:
 - Copy of Identification document;
 - Pension card;
 - Bank statements for last three months or other official financial proof of income as may be requested and
 - Payslip for the last three months;



- (iv) Additional rebates are only applicable to applicants whose municipal accounts are paid in full;
- (v) Medical unfit persons who have not been declared unfit by a pension fund must submit the necessary proof that they have been declared unfit for daily work related activities together with supporting evidence from two registered medical physicians;
- (vi) Disabled persons who have not been declared disabled must submit the necessary proof that they have been declared unfit for daily work related activities together with supporting evidence from two registered medical physicians;
- (vii) Applications who meet all the criteria may receive the rebate from date of receipt of the application;
- (viii) The rebate will be valid until the end of the financial year, and applications must be submitted annually;
- (ix) If applicant owns other properties for which a market related rental or any other non market rental is obtained the rental will form part of the gross monthly household income;
- (x) If the permitted use of a property in this category changes during a financial year, any rebate is forfeited from the date of approval by the Council of such change;
- (xi) Pensioners must be 60 years and older;
- (xii) Additional rebates be suspended if the applicant does not comply with point (ii) to (xi) mentioned above and
- (xiii) The gross monthly household income levels and rebates are set out in the table hereunder:

| Gross monthly household income | % Rate rebate |
|---------------------------------------|----------------------|
| R0.00 to Indigent threshold | 100% |
| Indigent threshold to R3 800 | 80% |
| R3 801 to R4 500 | 70% |
| R4 501 to R5 000 | 60% |
| R5 001 to R5 500 | 50% |
| R5 501 to R6 000 | 40% |
| R6001 to R6 500 | 30% |
| R6 501 to R7 000 | 20% |
| R7 001 to R7 500 | 10% |

- (d) Development incentives of properties
The following will apply:-

50% rate rebate will be applicable if the following criteria are met:-

- 1.1 All applicants must complete a standard application form obtainable from the Municipality and must declare under oath that:



- (i) Building plans have already been submitted to the Municipality for approval but not yet approved due to a delay on the side of the Municipality; or
- (ii) Building plans have been approved by the Municipality and construction has already started; or
- (iii) Building plans were submitted but development is not possible due to:
 - Municipal services not available to commence with development (Water, electricity and sanitation, etc);
 - The fact that the Municipality has not yet approved applications for example re-zoning, township applications, etc.

1.2 Rebates will only be applicable:

- (i) If the standard application is approved;
- (ii) For a 12 months period where after the applicant must re-apply;

1.3 In the event that the property is sold prior to completion of development the new owner must inform the Municipality and re-apply accordingly;

1.4 The Municipality reserves the right to refuse or reverse any rebate if the details submitted in the application are incomplete, incorrect, or false.

1.5 Unregistered erven (Township title properties) shall not be rateable until first registration takes place or a certificate of registered title has been issued by the Registrar of Deeds.

(e) All application for indigency will be dealt with in accordance to Council's approved indigent policy.

11. RATE INCREASES

- (1) The municipality will consider increasing property rates levies annually during the budget process;
- (2) The Municipality will in determining the rate levy increase take the following into consideration:-
 - a) To treat persons liable for rates equitably;
 - b) Take into account the effect of rates on the poor and include



appropriate measures to alleviate the rates burden on them.

- (3) All increases in the property rates levies will be communicated to the local community in terms of the council's IDP and Budget community participation process.

12. CORRECTION OF ERRORS AND OMISSIONS

- (1) Where the rates levies on a particular category of a 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.

13. FREQUENCY OF VALUATIONS

The municipality will make a general valuation of all properties and prepare a roll annually.

14. INSPECTION OF AND OBJECTIONS TO AN ENTRY IN THE VALUATION ROLL

- (1) Once the Council has given notice that the valuation roll is open for public inspection, any person may within the inspection period, inspect the roll and may lodge an objection with the Municipal Manager against any matter reflected in the roll or omitted from the roll;
- (2) Should any property owner not receive notification of the value of the property within 21 days after the valuation roll is handed to the municipality by the valuer the property owner should contact and or make request for details of property to the municipality;
- (3) Objections must be in relation to a specific property;
- (4) Lodging of an objection shall not defer liability for the payment of rates; and
- (5) All objections received shall be dealt with in accordance with the MPRA.

15. 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 **Annexure “A”** to this policy.



16. SHORT TITLE

This policy is the Property Rates Policy of the Emfuleni Local Municipality.

17. IMPLEMENTATION AND REVIEW OF THIS POLICY

This policy is valid from 1 July 2011 to 30 June 2012 and will be reviewed annually.



ANNEXURE "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, and the rates policy it must adopt in terms of this Act.

SECTION 3: ADOPTION AND CONTENTS OF RATES POLICY

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(1) must be exercised in relation to properties used for multiple purposes;



- identify and provide reasons for exemptions, rebates and reductions;
- 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 exemptions 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 rateable properties in a 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 extent of services provided by the municipality in respect of such properties;
- 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 organised 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



- advertise 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;
- rights registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- 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 from 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; or
- geographical area in which the property is situated.

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

- residential properties
- industrial properties
- business and commercial properties
- farm properties used for:
 - agricultural purposes
 - other business and commercial purposes
 - residential purposes
 - purposes other than those specified above
- farm properties not used for any purpose
- smallholdings used for:
 - agricultural purposes
 - residential purposes
 - industrial purposes
 - business and commercial purposes
 - purposes other than those specified above
- state owned properties
- municipal properties
- public service infrastructure
- privately owned towns serviced by the owner
- formal and informal settlements
- communal land
- state trust land
- properties acquired through the provision of Land Assistance Act 1993 or the Restitution of Land Rights Act 1994 or which is subject to the Communal Property Associations Act 1996
- protected areas
- properties on which national monuments are proclaimed
- properties owned by public benefit organisations and used for any specific public benefit activities
- properties used for multiple purposes.

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;
- 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 as a minimum requirement).

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 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 present 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;
- 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.



Projections regarding revenue to be forgone 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.

SECTION 16: CONSTITUTIONALLY IMPERMISSIBLE RATES

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 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

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 worship.

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



SECTION 18: EXEMPTION OF MUNICIPALITIES FROM PROVISIONS OF SECTION 17

A 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 mixed use 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);
- a rate on a category of non-residential properties that exceeds a prescribed ratio to the rate on residential properties; provided that different ratios may be set in respect of different categories of non-residential properties;
- rates which unreasonably discriminate between categories of non-residential properties; and
- additional rates, except as provided for in Section 22.

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 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.

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.

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 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, is 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.

SECTION 22: SPECIAL RATING AREAS

A municipality may by a resolution of its council determine an area within that municipality as a special rating area, levy an additional rate on property in that area for the purpose of raising funds for improving or upgrading that area, and differentiate between categories of properties when levying such additional rate.

For determining such a special rating area, the municipality must undertake a prescribed process of consultation with the local community, and obtain the consent of the majority of the members of the local community in the proposed special rating area who will be liable for paying the additional rate.

The levying of an additional rate may not be used to reinforce existing inequities in the development of the municipality, and any determination of a special rating area must be consistent with the objectives of the municipality's IDP.

SECTION 23: REGISTER OF PROPERTIES

The municipality must draw up and maintain a register in respect of all properties situated within that municipality, dividing such register into a part A and a part B.

Part A of the register consists of the current valuation roll of the municipality, including any supplementary valuation rolls prepared from time to time.

Part B of the register specifies which properties on the valuation roll or any supplementary valuation rolls are subject to:

- an exemption from rates in terms of Section 15 of the present Act;
- a rebate on or a reduction in the rate in terms of Section 15;



- a phasing in of the rate in terms of Section 21; and
- an exclusion referred to in Section 17.

The register must be open for inspection by the public during office hours, and if the municipality has an official website or a website available to it, the register must also be displayed on that website.

The municipality must at regular intervals, but at least annually, update part B of the register.

SECTION 24: PROPERTY RATES PAYABLE BY OWNERS

A rate levied by a municipality on property must be paid by the owner of the 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 and the communal portion.

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

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 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.

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

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

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.