

EMALAHLENI LOCAL MUNICIPALITY

PROPERTYRATES POLICY

Date Adopted :

Date Revised :

Date of Implementation:

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1. <u>INTRODUCTION:</u>	

The municipality needs a reliable source of revenue to provide basic services and

perform its functions. Property Rates remain a major source of income to the municipality. The revenue from rates is used to finance services that benefit the community as a whole as opposed to individual households. These include installing and maintaining streets, roads, lights, storm water drainage, developing and operating parks, recreational facilities and cemeteries. It also provides funds for municipal administration.

To ensure that property rating in Emalahleni Municipality is carried out in a fair, consistent, considerate and controlled manner, this rate policy is developed in accordance with the provisions of the Local Government: Municipal Property Rates Act, (Act 6 of 2004).

2. LEGISLATIVE CONTEXT:

In terms of Section 229 of the Constitution of the Republic of South Africa, a municipality may impose rates on property.

In terms of Section 4(1)(c) of the Systems Act, a municipality has the right to finance the affairs of the municipality by imposing, inter alia, rates on property.

In terms of Section 2 of the MPRA, a metropolitan or local municipality may levy a rate on property in its area.

This Policy is adopted in terms of Section 3 of the MPRA.

This Policy must be read together with, and is subject to the provisions of and the regulations of the MPRA and the Rates By-Law.

In terms of the MPRA, the Municipality allows for certain exemptions, reductions and rebates based on the ownership of properties.

The Municipality's Rates Policy must be adopted on an annual basis to ensure compliance with the Municipality's strategic objectives and with the applicable legislation.

3. DEFINITIONS:

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

"Agricultural Purposes" 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;

"Building Allotment" in relation to category of property means properties registered in the Deeds office as building allotments

"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 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 organism.

"Dominant Use" In the case of property used for multiple purposes, the use that dominates in terms of area used for such purpose. Where equal sizes are allocated to different uses, the use that commands the highest rate tariff shall be deemed to be the dominant use.

"Garden Allotment" in relation to category of property means properties registered in the Deeds office as garden allotments

"Industrial" means a branch of trade or manufacturing, production assembling or processing of finished or partially finished products from raw materials or fabricated part, on so large scale that capital and labour are significantly involved.

"Land reform beneficiary" in relation to a property, means a person who acquired the property through-

- The provision of land assistance act, 1993 (Act No. 126 of 1993) or
 - The Restitution of Land Rights Act, 1994 (Act No. 22 of 1994)
 - Holds the property subject to the Communal Property Association Act, 1996 (Act No 28 of 1996), or
 - Holds or acquires the property in terms of such other land tenure reform legislation as may be enacted pursuant to section 25(6) and (7) of the constitution
- be enacted after this Act has taken effect.

"Mining" means any operation or activity for the purpose of 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;

"Multiple purpose", in relation to a property, means the use of a property for more than one purpose

"Municipal properties" means those properties of which the municipality is the owner

"Newly rateable property", means any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding:

1. A property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date, and
2. A property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified.

"Owner", -

- In relation to a property referred to in paragraph (a) of the definition of "property", means a person in whose ownership of the property is registered.
- In relation to a right referred to in paragraph (b) of the definition of "property", means a person in whose name the right is registered.
- In relation to land tenure right referred to in paragraph (c) of the definition of "property", means a person in whose name the right is registered or to whom it was granted in terms of legislation or
- In relation to public service infrastructure referred to in paragraph (d) of the definition of "property", means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of "publicly controlled".

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

- A trustee, in the case of a property in trust excluding state trust land
- A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation.
- An executor or administrator, in the case of a property in deceased estate.

- A judicial manager, in the case of a property in the estate of a person under judicial management.
- A curator, in the case of a property in the state of a person under curatorship
- 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
- A lessee, in the case of a property that is registered in the name of a municipality and is leased by it or
- A buyer, in the case of a property that was sold by a municipality and 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 purpose for which the property may be used in terms of any restrictions imposed by-

- A condition of title
- A provision of a town planning or land use scheme or
- Any legislation applicable to any specific property or properties, or
- Any alleviation of any such restrictions

"Property ", means-

- 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
- A right registered against immovable property in the name of a person, excluding a mortgage bond registered against property,
- A land tenure right registered in the name of a person or granted to a person in terms of legislation
- Public service infrastructure

"Protected area", means an area that is or has to be listed in the register referred to in section 10 of the Protected Area 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.

"Public services infrastructure", means publicly controlled infrastructure of the following kinds

- National, provincial or other public roads on which goods, services and labour move across a municipal boundary
- 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
- Power stations, power substations or power lines forming part of an electric municipality scheme serving the public.
- Gas or liquid fuel plants or refineries for gas or liquid fuels, forming part of a scheme for transporting such fuels
- Railway lines forming part of a national railway system
- Communication towers, masts, exchanges or lines forming part of a communications system serving the public
- Runways or aprons at national or provincial airports
- Any other publicly controlled infrastructure as may be prescribed
- Rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs(a) to (i)

"Rate" means, municipal rate on property envisaged in section 229(i)(a) of the constitution

"Ratable property", means property on which a municipality may in terms of section 2 levy a rate, excluding property fully excluded from the levying of rates in terms of section 17

"Rebate", in relation to a rate payable on a property, means a discount granted in terms of section 15 on the amount of the rate payable on the property

"Reduction", in relation to a rate payable on a property, means the lowering in terms of section 15 of the amount for which the property was valued and the rating of the property at that lower amount.

"Residential property", means a property included in a valuation roll in terms of section 48 (2) (b) as residential

"Residential" means a suite of rooms which forms a living unit that is exclusively used for human habitation purposes, or a multiple number of such units on a property, excluding a hotel, commune, boarding and under taking, hostels and place of instruction.

"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 are classified as follows:

- State properties that provide local services.
- State properties that provide regional/municipal district -wide/ metro-wide services.
- State properties that provide provincial/national services.

"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.

"Vacant land" means a land where no immovable improvements have been erected.

4. PRINCIPLES:

The following principles will ensure that the municipality treats persons liable for rates equitably:

- Equity
The municipality will treat ratepayers with similar properties the same.
- Affordability

The ability of a person to pay rates will be taken into account by the municipality. In dealing with the poor/indigent ratepayers the municipality will provide relief measures through exemptions, reductions or rebates. In order to minimize major shocks to ratepayers the market values in the new valuation roll will be phased-in over the entire period of the valuation cycle.

5. CRITERIA FOR CATEGORIES OF PROPERTY FOR THE PURPOSE OF LEVYING DIFFERENT RATES:

The municipality has determined categories of properties based on the following criteria:

- Use of the property.

The following are the determined categories of properties by the municipality:

- Residential properties
- Business properties
- Industrial properties
- Mining properties
- Public service infrastructure
- Public Benefits Organisation
- Agricultural properties used for agricultural purposes
- Agricultural properties used for eco-tourism or conservation
- Agricultural properties used for the trading in or hunting of game
- State-owned properties:
 - i. State properties that provide local services.
 - ii. State properties that provide regional/municipal district-wide/metro wide service.
 - iii. State properties that provide provincial/national service.
- Municipal properties
- Protected areas
- Multiple use properties
- Vacant land

6. DIFFERENTIAL RATING

6.1. Criteria for differential rating on different categories of properties

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 agricultural purposes.
- Vacant land will be rated at the rate equals to residential property. The municipality reserve the right to charge vacant land at higher rate (in terms of a Cent amount in a Rand) to encouraging owners of vacant land to develop it and discourage the use of vacant land for speculation purpose by owners.
- Promotion of social and economic development of a 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. This is much simpler for citizens to understand and thus promotes the principle of transparency.

6.2 Rating Ratios per category of Property

Rates shall be charged using the following ratios:

Category of Property	Ratio
Residential	1.00
Vacant land	1.00
Business	1.50
Industrial Properties	1.50
Mining Properties	0.00
Public Service Infrastructure	0.25
Public Benefit organisation	0.25
Agriculture	0.25
Public Service Purpose (owned by organ of state)	1.50

Municipal Properties (Property registered in Municipality's name)	0.00
Protected Areas	0.00
Multi Used Properties	Based on Dominant Used

7. CRITERIA FOR RATING MULTIPLE USE PROPERTY

The municipality opted not to create a "Multiple use property" category, but to classify all multiple use properties within its jurisdiction in terms of section 9 (1) (b) of the Act.

The Municipality will rate properties used for multiple purposes based on dominant used in line with the above section.

8. SPECIAL RATING AREA:

Municipality may from time to time create special rating areas to raise funds to address infrastructure needs. Before declaring any part of the municipality as a special rating area for the purpose of levying additional rates, the municipality shall consult the local community and agree on the boundary delimiting the special rating area and the improvement or service to be provided.

9. PROPERTIES TO BE VALUED

All properties shall be valued except those described in section 7(2) (a) (iii) and (iv) of Act 6 of 2004.

Section 7(2) (a) (iii) refers to a right registered against property in the name of a person excluding mortgage bond registered against the property and

Section 7 (2) (a) (iv) refers to properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racially discriminatory laws or practices. This shall include all homestead located on communal land.

All properties shall be valued except those described in section 7(2) (a) (iii) and (iv) of Act 6 of 2004.

Section 7(2) (a) (iii) refers to a right registered against property in the name of a person excluding mortgage bond registered against the property and

Section 7 (2) (a) (iv) refers to properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racially discriminatory laws or practices. This shall include all homestead located on communal land.

10. PROPERTIES TO BE RATED

All properties contained in the valuation roll shall constitute the subject of rating subject to the provisions of section 17 (1) of the Municipal Property Rates Act. In terms of the subsection (1) described supra, the following exclusions are provided:

A municipality may not levy a rate-

- 10.1. on the first 30% of the market value of public service infrastructure;
- 10.2. on any part of the seashore as defined in the Seashore Act, 1935 (Act No. 21 of 1935);
- 10.3. on any part of the territorial waters of the Republic as determined in terms of the Maritime Zones Act, 1994 (Act No. 15 of 1994);
- 10.4. on any islands of which the state is the owner, including the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948)
- 10.5. on those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004, which are not developed or used for commercial, business, agricultural or residential purposes;
- 10.6. on mineral rights within the meaning of paragraph (h) of the definition of "property" in section 1;
- 10.7. on a property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapse ten years from the date on which such beneficiary's title was registered in the office of the Registrar of Deeds;

- 10.8. on the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality to a category determined by the municipality-
- (i) for residential properties; or
 - (ii) for properties used for multiple purposes, provided one or more companies of the property are used for residential purpose; or
- 10.9. on a property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship.
- (a) The exclusion from rates of a property referred to in subsection (1) (e) lapses if the declaration of that property as a special nature reserve, national park, nature garden, is withdrawn in terms of the applicable Act mentioned in that subsection.
 - (b) If the property in respect of which the declaration is withdrawn is privately owned, the owner, upon withdrawal of the declaration, becomes liable to the municipality concerned for any rates that, had it not been for subsection (1) (e), would have been payable on the property during the period commencing from the effective date of the current valuation roll of the municipality. If the property was declared as a protected area after the effective date of the current valuation roll, rates are payable only from the date of declaration of the property.
 - (c) The amount for which an owner becomes liable in terms of paragraph (h) must be regarded as rates in arrears, and the applicable interest on that amount is payable to the municipality.
 - (d) Paragraphs (b) and (c) apply only if the declaration of the property was withdrawn because of-
 - (i) a decision by the private owner for any reason to withdrawn from the agreement concluded between the private owner and the state

in terms of the Protected Areas Act, and in terms of which the private owner initially consented to the property being declared as a protected area; or

- (ii) a decision by the state to withdrawn from such agreement because of a breach of the agreement by the private owner.

10.10. If the threshold set in terms of Section 17(1)(h) is increased by the Minister in the course of this financial year, such changes shall take effect from the next financial year.

10.11. If the Minister by notice in the Gazette, lower the percentage referred to in subsection (l)(a) in the course of this financial year such a change shall be affected during the next financial year.

- (a) The exclusion from rates of a property referred to in subsection
 - (i) lapses if the property-
 - (ii) Is disposed of by the religious community owning it; or
 - (iii) Is no longer used primarily as a place of public worship by a religious community or, in the case of an official residence contemplated in that subsection, is no longer used as such as official residence.
- (b) If the exclusion from rates of a property used as such an official lapse, the religious community owning the property becomes liable to the municipality concerned for any rates that, had it not been for subsection (l)(i), would have been payable on the property during the period of one year preceding the date on which the exclusion lapsed.
- (c) The amount for which the religious community becomes liable in terms of paragraph (b) must be regarded as rates in arrears, and the applicable interest on that amount is payable to the municipality.

11. WITHDRAWAL OF EXCLUSIONS:

Where a property owned by a religious body ceased to be used as a place of worship or as an accommodation used by a fulltime employee of the religious organization, such a property shall be deemed as a rateable property from the date it ceased to be used as a place of worship or as a residence of a fulltime employee.

Where a portion of a property owned and utilized by a religious body is leased, rate shall be payable on pro rata basis.

Properties excluded from rating on the basis that they are nature conservation areas or botanical gardens shall be rated effective from the date of de-proclamation.

12. PAYMENT OF RATES:

Rate shall be payable on all property at the applicable rates based on the values reflected in the valuation roll except where the municipality grants reduction, rebate or exemption.

13. GRANTING RELIEF FROM THE PAYMENT OF RATES:

Relief shall be granted on the basis of reduction, rebate and exemption.

13.1. REDUCTION:

13.1. 1. Reduction shall be granted only in the event of a natural disaster resulting in total or partial destruction of the property. The municipality shall on receipt of application from the affected Ratepayer, grant a reduction on the value of the property.

13.1. 2 The reduction granted shall be a proportion of the value of the property equivalent to the ratio of the damage to the total value of the property. Such a relief shall be granted for the unexpired term of the financial year.

13.1.3 The property shall immediately be placed on the list for the next additional valuation. The valuation shall be carried out if even the property is repaired.

13.1.4 In determining the ratio of damage to the total value of the property, the Municipal Manager may on receipt of request delegate the Head of Technical Services to inspect and report if the damage is substantial to recommend reduction to the value of the property.

13.1.5 If the Municipal Manager is satisfied that the damage warrants the granting of reduction, he shall on the advice of the Technical Director determine the reduction to be granted to the Ratepayer. Recommendation will then be made to Council for approval.

13.1.6 If the disaster affects more than one property, the Municipal Manager may extend inspection and subsequent granting of reduction to all properties affected which are within his knowledge.

13.1.7 Notwithstanding the provisions of paragraph 9.1.6 above, it shall remain the responsibility of the owner of the property to apply for reduction.

13.2 REBATES:

Where as a result of a natural disaster the infrastructure of the area is damaged, council may grant rebate to the property owner equivalent to the rebate granted for the non-existence of such a service.

13.3 EXEMPTION:

13.3.1 Properties owned by community benefit organizations located in the municipality for the benefit of people in the municipality shall be granted exemption provided that such organizations will provide proof of benefit to the community by submitting their budget for the year in question and the audited accounts for the previous year.

13.3.2 Owners of residential properties described as Indigent in terms of the indigent policy and registered as such shall be exempted from the payment of rates to the amount in line with the tariff structure as approved for that financial year

13.3.3 Owners of properties registered in the Deeds office as Garden Allotments are exempted from the payment of rates

13.3.4 Owners of properties registered in the Deeds office as Building Allotments are exempted from the payment of rates.

13.3.5 Child headed homes will be granted exemption. The exemption lapses where a sibling attains the age of 18 years except where such a sibling is still pursuing academic or vocational training.

The exemption referred to under paragraph 9.3.5 shall be granted if even the children are under the care of a foster parent living on the property with the children.

14. PERIOD OF RATE:

Rate shall be imposed on annual basis and it shall be from 1 July to 30th June of the following year but will be levied on a monthly basis

15. RATES:

Rate shall be an amount of cents in a rand. A rate is levied by municipality by resolution passed by the Municipal Council with a supporting vote of a majority of its members.

16. LIABILITY FOR RATES:

A property rate is a debt in respect of taxation in terms of section 11 of the Prescription Act 68 of 1969, and the Municipality can recover rates in arrear for a period of up to 30 years.

The due date for payment of rates in terms of sections 26(2)(a) and (b) and 78(4) of the MPRA means the date reflected on a municipal invoice as the final date on which payment is due and payable.

Liability for the payment of rates is further governed by the MPRA and the Municipality's Credit Control and Debt Collection By-Law and Policy.

Rates which are recovered by the Municipality on an annual or a monthly basis, are payable on or before the due date stipulated in the account sent to the ratepayer and payable in full on or before the due date and interest will be charged on rates that are in arrears.

A ratepayer remains liable for the payment of the rates whether or not an account has been received and if an account has not been received, the ratepayer makes the necessary inquiries from the Municipality to establish the amount due for the rates and to pay that amount to the Municipality.

17. MULTIPLE OWNERS:

The Municipality of Cape Town will not split a municipal account as a result of multiple ownerships and will hold the owners jointly and severally liable for payment.

18. INTEREST ON OVERDUE ACCOUNTS:

Interest shall be raised on overdue accounts as determined in the Credit Control and Debt Collection By-Law and Policy.

The municipality shall not backdate interest on accounts where the municipality failed to bill the account or billed incorrect person. Customers should not be penalized for the errors on the municipality's part.

19. EFFECT OF REVIEWS, OBJECTIONS AND APPEALS ON LIABILITY FOR PAYMENT:

The lodging of an objection, a review or an appeal in terms of sections 50, 52 and 54 of the MPRA does not defer liability for the payment of rates.

20. PUBLICATION OF RESOLUTION:

The Municipality shall publish the rate tariff in the provincial gazette. Whenever council passes resolution with regard to rate tariff, the Municipal Manager shall without delay conspicuously display copies of the resolution for a period of 30 days at the Municipalities head and satellite offices and libraries. Municipality shall publish in a newspaper circulating in the municipal area stating that:

- a resolution levying rate on property has been passed by the council and
- The resolution is available at the municipality head and satellite offices and libraries for public inspection during official hours.
- Municipality shall place a copy of resolution on the official website.

21. ANNUAL REVIEW OF RATES POLICY:


The municipality will annually review, and if necessary amend its rates policy taking into accounts public comments and inputs.

22. EFFECTIVE DATES OF THE RATES POLICY:

The rates policy takes effect from the start of the municipal financial year


VC MAKEDAMA
MUNICIPAL MANAGER

30/06/2021
Date


CLLR DS KALOLO
HON. SPEAKER