

# **AMAHLATHI MUNICIPALITY**

## **RATES POLICY**

### **[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 fulfill its developmental responsibilities
- revenues derived from property rates represent a critical source of income for municipalities to achieve their constitutional objectives, especially in areas neglected in the past because of racially discriminatory legislation and practices; and
- it is essential that municipalities exercise their power to impose rates within a statutory framework which enhances certainty, uniformity and simplicity across the nation, and which takes account of historical imbalances and the burden of rates on the poor

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

### **[2] Definitions**

**"act"** means the Rates Act No. 6 of 2004

**"agent"** in relation to the owner of a property, means a person appointed by the owner of the property-

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

**"agricultural purpose"** in relation to the use of a property, excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game

**"annually"** means once every financial year

**"appeal board"** means a valuation appeal board established in terms of section 56 of the Act

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

**"category"** -

(a) in relation to property, means a category of properties determined in terms of section 8; and

(b) in relation to owners of properties, means a category of owners determined in terms of section 15(2) of the Act

**"data-collector"** means a person designated as a data-collector in terms of section 36 of the Act

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

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

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

**"effective date"**-

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

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

**"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 a municipality in terms of section 15 of the Act

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

**"Income Tax Act"** means the Income Tax Act, 1962 (Act No. 58 of 1962)

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

- (a) acquired the property through-
  - (i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or
  - (ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);
- (b) holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or
- (c) holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to section 25(6) and (7) of the Constitution be enacted after this Act has taken effect

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

**"local community"** in relation to a municipality-

- (a) means that body of persons comprising-
  - (i) the residents of the municipality;
  - (ii) the ratepayers of the municipality;
  - (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
  - (iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality; and
- (b) includes, more specifically, the poor and other disadvantaged sections of such body of persons

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

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

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

**"Minister"** means the Cabinet member responsible for local government;

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

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

**"Municipal Finance Management Act"** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003)

**"municipality"**-

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

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

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

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

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

**"municipal valuer"** or **"valuer of a municipality"** means a person designated as a municipal valuer in terms of section 33(1) of the Act

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

- (a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and
- (b) a property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified

**"occupier"** in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property

**"organ of state"** means an organ of state as defined in section 239 of the Constitution

**"owner"**-

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

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

- (i) A trustee, in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;

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

**"permitted use"**, in relation to a property, means the limited purposes for which the property may be used in terms of -

- (a) any restrictions imposed by -
  - (i) a condition of title;
  - (ii) a provision of a town planning or land use scheme; or
  - (iii) any legislation applicable to any specific property or properties; or
- (b) any alleviation of any such restrictions; "person" includes an organ of state;

**"prescribe"** means prescribe by regulation in terms of section 83 of Act

**"property"** means-

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

**"property register"** means a register of properties referred to in section 23 of the Act

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

**"Protected Areas Act"** means the National Environmental Management Protected Areas Act 2003

**"publicly controlled"** means owned by or otherwise under the control of an organ of state, including -

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

**"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) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i)

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

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

**"register"-**

- (a) means to record in a register in terms of-
  - (i) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
  - (ii) the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and
- (b) includes any other formal act in terms of any other legislation to record-
  - (i) a right to use land for or in connection with mining purposes; or
  - (ii) a land tenure right

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

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

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

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

**"specified public benefit activity"** means an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act

**"state trust land"** means land owned by the state-

- (a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- (b) over which land tenure rights were registered or granted; or
- (c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994)

### **[3] Imposition of Rates**

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.

The Council pledges itself to limit each annual increase as far as practicable to the increase in the consumer price index over the period preceding the financial year to which the increase relates, except when the approved Integrated Development Plan of the municipality provides for a greater increase.

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

### **[4] Exemptions, Rebates and Reduction of Rates**

In imposing the rate in the rand for each annual operating budget component, the Council shall grant the exemptions, rebates and reductions to the categories of properties and categories of owners indicated in Schedule I, but the Council reserves the right to amend these exemptions, rebates and reductions annually.

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

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

Municipal properties shall include properties owned by municipal entities. Properties used for multiple purposes, other than those referred to under residential properties above, shall be rated on the value assigned to each component, and shall receive the rebate applicable to such component. Where one component on average represents 90% or more of the property's actual use, such property shall be rated as though it were used for that use only.

The Council grants the rebates in recognition of the following factors:

- The inability of residential property owners to pass on the burden of rates, as opposed to the ability of the owners of business, commercial, industrial and certain other properties to recover such rates as part of the expenses associated with the goods or services which they produce
- The need to accommodate indigents and less affluent pensioners
- The services provided to the community by public service organizations
  
- The value of agricultural activities to the local economy coupled with the limited municipal services extended to such activities, but also taking into account the municipal services provided to municipal residents who are employed in such activities
- The need to preserve the cultural heritage of the local community
- The need to encourage the expansion of public service infrastructure
- The indispensable contribution which property developers (especially in regard to commercial and industrial property development) make towards local economic development, and the continuing need to encourage such development
- The requirements of the Property Rates Act no. 6 of 2004

The Municipal Manager shall ensure that the revenues forgone in respect of the foregoing rebates are appropriately disclosed in each annual operating budget component and in the annual financial statements and annual report, and that such rebates are also clearly indicated on the rates accounts submitted to each property owner.

#### **[5] Frequency of Payments**

Owners may pay the property rates monthly or on request annually by application in writing to the CFO, to pay in equal monthly instalments over a period of 12 months.

## **[6] Correction of Errors and Omissions**

Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll. In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

## **[7] Frequency of Valuations**

A municipality must regularly, 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.

## **[8] Legal Requirements**

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

Paraphrase Of Key Requirements Of Local Government: Municipal Property Rates Act No. 6 Of 2004 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 (such criteria will be determined Council and will be an addendum to this policy, which will be revised annually) 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 (such criteria will be determined Council and will be an addendum to this policy, which will be revised annually) for the determination of categories of properties for the purposes of levying different rates, and categories of owners of properties, or categories of properties, for the purpose of granting exemptions, rebates and reductions
- determine how the municipality's powers in terms of Section 9 must be exercised in relation to properties used for multiple purposes
- identify and quantify in terms of cost to the municipality and any benefit to the local community
- exemptions, rebates and reductions; exclusions; and rates on properties that must be phased in terms of Section 21
- take into account the effect of rates on the poor and include appropriate measures to alleviate the rates burden on them
- take into account the effect of rates on organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax reductions because of those activities, in the case of property owned and used by such organisations for those activities
- take into account the effect of rates on public service infrastructure
- allow the municipality to promote local, social and economic development; and
- identify, on a basis as may be prescribed, all 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 owned by a municipal entity
- rights registered against immovable property in the name of a person
- properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure attributable to past racially discriminatory laws or practices

The requirement to levy rates on all rateable properties does not prevent a municipality from granting exemptions 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, if the permitted use of the property is regulated;
- a purpose corresponding with the dominant use of the property; or
- multiple purposes, as specified in Section 8 above.

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

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

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

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

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

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

- on the market value on the property
- in the case of public service infrastructure, on the market value of the public service infrastructure less 30% of that value
- in the case of property to which Section 17(1)(h) applies, on the market value of the property less the amount stated in that section (note the section concerned deals with the requirement that the first R15 000 of the market value of certain properties is not rateable)

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

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

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

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

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

All exemptions, reductions and rebates projected for a financial year must be reflected in the municipality's annual budget for that year as income on the revenue side and expenditure on the expenditure side.

## **SECTION 16: CONSTITUTIONALLY IMPERMISSIBLE RATES (ABRIDGED)**

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 (ABRIDGED)**

A municipality may not levy a rate on:

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

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

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

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 non-residential properties that exceeds a prescribed ratio to the rate on residential properties
- rates which unreasonably discriminate between categories of non-residential properties; and
- additional rates, except as provided for in Section 22

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

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

The Minister may, on written application by a municipality, and on good cause shown, exempt such municipality from a limit set in terms of the foregoing.

## **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, be at least 25% of the rate for that year otherwise applicable to that property

No rate may be levied during the first year on newly rateable property owned and used by organizations 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 (ABRIDGED)**

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 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.

#### **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 (ABRIDGED)**

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

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

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

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

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

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

## **SECTION 77: GENERAL**

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

## SECTION 2 PART 1:

By-laws to give effect to rates policy

6. (1) A municipality must adopt by-laws to give effect to the implementation of its rates policy.

(2) By-laws in terms of subsection (1) may differentiate between-

(a) different categories of properties; and

(b) different categories of owners of properties liable for the payment of rates.

## Schedule I

*	Residential properties or properties of any category used for multiple purposes where the residential component represents on average 90% or more of the property's actual use	%
*	Industrial properties	NONE
*	Business and commercial properties	NONE
*	Farm properties: residential component	%
*	Farm properties: business and commercial component	NONE
*	Farm properties: agricultural component	%
*	Farm properties: used for no purpose	NONE
*	Smallholdings: residential component	%
*	Smallholdings: business and commercial component	NONE
*	Smallholdings: industrial component	NONE
*	Smallholdings: agricultural component	%
*	State-owned properties: residential	%
*	State-owned properties: public service infrastructure	%
*	State-owned properties: other	NONE
*	Municipal properties: residential	%

*	Municipal properties: public service infrastructure	%
*	Municipal properties: other	NONE
*	Formal and informal settlements: all properties with a rateable value of up to R	%
*	Formal and informal settlements: all properties with a rateable value of R or more	%
*	Communal land	%
*	State trust land	%
*	Protected areas	%
*	Properties on which national monuments are situated, and where no business or commercial activities are conducted in respect of such monuments	%
*	Properties on which national monuments are situated, but where business or commercial activities are conducted in respect of such monuments	%
*	Properties owned by public benefit organisations and used to further the objectives of such organisations	%
*	Properties belonging to a land reform beneficiary or his or her heirs for the first 10 years after the registration of the title in the office of the Registrar of Deeds	%
*	Property registered in the name of and used primarily as a place of worship by a religious community, including an official residence	%

## Schedule II

*	Property owners who are both the permanent occupants and the sole owners of the property concerned to R and who are registered indigents in terms of the municipality's indigency management policy	R	%	of the rates based on the rateable value up to R and % of the rates based on the rateable value above
*	Property owners who are over 60 years of age, who are both the permanent occupants and the sole owners of the property concerned, and whose aggregate household income is proved to the satisfaction of the municipal manager not to exceed R per month, or such other amount as the council may from time to time determine	R	%	of the rates based on the rateable value up to R, % of the rates based on the rateable value above R but below R, and % of the rates based on the rateable value above R

- \* Owners of properties being developed for approved commercial or industrial usage                      % of the rates based on the rateable value until the development is completed, % of the rates based on the rateable value for the municipality's financial year or part thereof immediately following the completion of the development, and % of the rates based on the rateable value for each of the two ensuing years

**Addendum I**

**Criteria**