

THEMBISILE HANI MUNICIPALITY

PROPERTY RATES POLICY



2017/2018

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**THEMBISILE HANI LOCAL MUNICIPALITY**

**PROPERTY RATES POLICY**

**1. LEGISLATIVE CONTEXT**

- 1.1 This policy is mandated by Section 3 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004), which specifically provides that a municipality must adopt a Rates Policy.
- 1.2 In terms of Section 229 of the Constitution of the Republic of South Africa, 1996 (No.108 of 1996), a municipality may impose rates on property.
- 1.3 In terms of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) a local municipality in accordance with-
- a. Section 2(1), may levy a rate on property in its area; and
  - b. Section 2(3), must exercise its power to levy a rate on property subject to-
    - i. Section 229 and any other applicable provisions of the Constitution;
    - ii. the provisions of the Property Rates Act and the regulations promulgated in terms thereof; and
    - iii. the rates policy.
- 1.4 In terms of Section 4 (1) (c) of the Local Government: Municipal Systems Act, 2000 (No. 32 of 2000), the Council of a municipality has the right to finance the affairs of the municipality by imposing, *inter alia*, rates on property.
- 1.5 In terms of Section 62(1)(f)(ii) of the Local Government: Municipal Finance Management Act, 2003 (No. 56 of 2003) the municipal manager must ensure that the municipality has and implements a rates policy.
- 1.6 This policy must be read together with, and is subject to the stipulations of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) and any regulations promulgated in terms thereof.

**2. DEFINITIONS**

- 2.1 "Act" means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);
- 2.2 "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;
- 2.3 "Agricultural purpose" in relation to the use of a property, includes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game;
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- 2.4 "Annually" means once every financial year;

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- (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
- (iv) a judicial manager, in the case of a property in the estate of a person under
- (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;

2.13 "Privately owned towns serviced by the owner" means single properties, situated in an area not ordinarily being serviced by the municipality, divided through sub division or township establishment into (ten or more) full title stands and/ or sectional units and where all rates related services inclusive of installation and maintenance of streets, roads, sidewalks, lighting, storm water drainage facilities, parks and recreational facilities are installed at the full cost of the developer and maintained and rendered by the residents of such estate.

2.14 "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.

2.15 "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;

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- (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. POLICY PRINCIPLES

- 3.1 Rates are levied in accordance with the Act as an amount in the rand based on the market value of all rateable property contained in the municipality's valuation roll and supplementary valuation roll.
- 3.2 As allowed for in the Act, the municipality has chosen to differentiate between various categories of property and categories of owners of property as contemplated in clause 7 and 8 of this policy. Some categories of property and categories of owners are granted relief from rates. The municipality however does not grant relief in respect of payments for rates to any category of owners or properties, or to owners of properties on an individual basis.
- 3.3 There would be no phasing in of rates based on the new valuation roll, except as prescribed by legislation and in accordance with clause 16 of this policy.
- 3.4 In accordance with section 3(3) of the Act, the rates policy for the municipality is based on the following principles:
  - (a) Equity  
The municipality will treat all ratepayers with similar properties the same.
  - (b) 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, rebates and cross subsidy from the equitable share allocation.
  - (c) Sustainability  
Rating of property will be implemented in a way that:
    - i. It supports sustainable local government by providing a stable and buoyant revenue source within the discretionary control of the municipality;
    - ii. Supports local, social and economic development; and
    - iii. Secures the economic sustainability of every category of ratepayer.
  - (d) Cost efficiency  
Rates will be based on the value of all rateable property and will be used to fund community and subsidized services after taking into account profits generated on trading (water) and economic (refuse removal, sewerage disposal) services and the amounts required to finance exemptions, rebates, reductions and phasing-in of rates as approved by the municipality from time to time.

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7.1.4 Agricultural properties;

7.1.5 Small Holdings;

7.1.6 State owned properties;

7.1.7 Municipal properties;

7.1.8 Public service infrastructure referred to in the Act;

7.1.9 Properties owned by Public Benefit Organizations;

7.1.10 Churches;

7.1.11 Educational;

7.1.12 Privately Owned Towns;

7.1.13 Vacant Stands.

7.1.14 Properties situated illegally on the municipal parks

7.2 In determining the category of a property referred to in 7.1 the municipality shall take into consideration the dominant use of the property, regardless the formal zoning of the property.

7.3 Properties used for multiple purposes shall be categorized and rated as provided for in section 9 of the Act and as more fully described in clause 9 of this policy.

## 8. CATEGORIES OF OWNERS

8.1 For the purpose of granting exemptions, reductions and rebates in terms of clause 11, 12 and 13 respectively the following categories of owners of properties are determined:-

- (a) Those owners who qualify and who are registered as indigents in terms of the adopted indigent policy of the municipality;
- (b) Those owners who do not qualify as indigents in terms of the adopted indigent policy of the municipality but whose total monthly income is less than the amount annually determined by the municipality in its budget;
- (c) Owners of property situated within an area affected by-
  - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
  - ii. serious adverse social or economic conditions.
- (d) Owners of residential properties with a market value below R50 000;
- (e) Owners of properties situated in "privately owned towns" as referred to in clause 13.1 (b);

Property Rates Act is included in the amount referred to above as annually determined by the municipality

(c) Public Service Infrastructure

Is exempted from paying rates as allowed for in the Act as they provide essential services to the community.

The first 30% of the market value of the property is exempted from levying of rates in terms of section 17(1)(a) of the Act as referred to in paragraphs (c)(d)(f)(i) and (j) of the definition of public service infrastructure

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- (d) *Sporting bodies*  
Property used by an organization for sporting purposes on a non-professional basis.
  - (e) *Cultural institutions*  
Property used for purposes declared in terms of the Cultural Institutions Act, Act 29 of 1969 or the Cultural Institutions Act, Act 66 of 1989.
  - (f) *Museums, libraries, art galleries and botanical gardens*  
Property registered in the name of private persons, open to the public and not operated for gain.
  - (g) *Animal welfare*  
Property owned or used by organizations whose exclusive aim is to protect birds, reptiles and animals on a not-for-gain basis.
  - (h) *Cemeteries and crematoriums*  
Property used for cemeteries and crematoriums.
  - (i) *Welfare institutions*  
Properties used exclusively as an orphanage, non-profit retirement villages, old age homes or benevolent/charitable institutions, including workshops used by the inmates, laundry or cafeteria facilities; provided that any profits from the use of the property are used entirely for the benefit of the institution and/or to charitable purposes within the municipality.
  - (j) *Charitable institutions*  
Property owned or used by institutions or organizations whose aim is to perform charitable work on a not-for-gain basis.

- 11.5 All possible benefiting organisations in clause 11.4 must apply annually for exemptions. All applications must be addressed in writing to the municipality by 31 August for the financial year in respect of which the rate is levied. If the exemption applied for is granted the exemption will apply for the full financial year.
- 11.6 Public benefit organisations must attach a SARS tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (No 58 of 1962) to all applications.
- 11.7 The municipality retains the right to refuse the exemption if the details supplied in the application form were incomplete, incorrect or false.
- 11.8 The extent of the exemptions implemented in terms of clauses 11.1 to 11.4 must annually be determined by the municipality and included in the annual budget.

## 12. REDUCTIONS

- 12.1 Reductions as contemplated in section 15 of the Act will be considered on an *ad-hoc* basis in the event of the following:-
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financial year in respect of which the rate is levied. If the rebate applied for is granted the rebate will apply for the full financial year.

(b) Privately owned towns serviced by the owner

The municipality may grant an additional rebate, to be determined on an annual basis, which applies to privately owned towns serviced by the owner qualifying as defined in clause 2.13 of this policy. All applications must be addressed in writing to the municipality by 31 August for the financial year in respect of which the rate is levied. If the rebate applied for is granted the rebate will apply for the full financial year.

(c) Agricultural property rebate

- i. When considering the criteria to be applied in respect of any exemptions, rebates and reductions on any properties used for agricultural purposes the municipality must take into account:-
  - a. the extent of rates related services rendered by the municipality in respect of such properties.
  - b. the contribution of agriculture to the local economy.
  - c. the extent to which agriculture assists in meeting the service delivery and developmental objectives of the municipality; and
  - d. the contribution of agriculture to the social and economic welfare of farm workers.
- ii. In terms of section 84 of the Act the Minister for Provincial and Local Government, and in concurrence with the Minister of Finance as required through section 19 of the Act, may determine that a rate levied by the Council on a category of non residential property may not exceed the ratio to the rate on residential property.
- iv. The granting of additional rebates is subject to the following:-
  - a. All applications must be addressed in writing to the municipality by 31 each year indicating how service delivery and development obligations of the municipality and contribution to the social and economic welfare of farm workers were met. This application will be required as a once off requirement. Any new must be addressed in writing to the municipality by 31 August for the financial year in respect of which the rate is levied. If the rebate applied for is granted the rebate will apply for the full financial year and such application again regarded as a once off requirement.
  - b. Council reserves the right to send officials or its agents to premises/households receiving relief on annual basis for the purpose of conducting an on-site audit of the details supplied. The onus also rests on recipients to immediately notify Council of any changes in their original application.
  - c. The municipality retains the right to refuse the exemption if the details supplied in the application form were incomplete, incorrect or false.
- v. No other rebates will be granted to properties that qualify for the agricultural rebate. For the avoidance of doubt, properties that qualify for the agricultural rebate will not be entitled to the residential rate exemption as set out in clause 11.1(b) of this policy.

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(a) on a monthly basis or annually..

14.2 Ratepayers may choose paying rates annually in one installment on or before 30 September each year. If the owner of property that is subject to rates, notify the municipal manager or his/her nominee in writing not later than 30 June in any financial year, or such later date in such financial year as may be determined by the municipality that he/she wishes to pay all rates annually, such owner shall be entitled to pay all rates in the subsequent financial year and each subsequent financial year annually until such notice is withdrawn by him/her in a similar manner.

14.3 The municipality shall determine the due dates for payments in monthly installments and the single annual payment and this date shall appear on the accounts forwarded to the owner/ tenant/ occupants/ agent.

14.4 Rates payable on an annual basis will be subject to a discount of 5% if paid in full on or before 30 September of each year.

14.5 Interest on arrears rates, whether payable on or before 30 September or in equal monthly installments, shall be calculated in accordance with the provisions of the Credit Control and Debt Collection Policy of the Municipality.

14.6 If a property owner who is responsible for the payment of property rates in terms of this policy fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Credit Control and Debt Collection By-law of the Municipality.

14.7 Arrears rates shall be recovered from tenants, occupiers and agents of the owner, in terms of the Act and the Municipality's credit control and debt collection by-law.

14.8 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.

14.9 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.

#### 15. ACCOUNTS TO BE FURNISHED

15.1 The municipality will furnish each person liable for the payment of rates with a written account, which will specify:-

(i) the amount due for rates payable,

~~(ii) the date on or before which the amount is payable,~~

17.2 The following matters shall be attended to in consultation with the committee referred to in clause 17.3 whenever special rating is being considered:-

17.2.1 Proposed boundaries of the special rating area;

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**18. FREQUENCY OF VALUATION**

- 18.1 The municipality shall prepare a new valuation roll at least every 4 (four) years.
- 18.2 In accordance with the Act the municipality, under exceptional circumstances, may request the MEC for Local Government and Housing in the province to extend the validity of the valuation roll to 5 (five) years.
- 18.3 Supplementary valuations may be done on a continual basis but at least on an annual basis.

**19. COMMUNITY PARTICIPATION**

- 19.1 Before the municipality adopts the rates policy, the municipal manager will follow the process of community participation envisaged in chapter 4 of the Municipal Systems Act and comply with the following requirements:-
- 19.1.1 Council must establish appropriate mechanisms, processes and procedures to enable the local community to participate and will provide for consultative sessions with locally recognised community organisations and where appropriate traditional authorities.
- 19.1.2 Conspicuously display the draft rates policy for a period of at least 30 days (municipality to include period decided on) at the municipality's head and satellite offices, libraries and on the website.
- 19.1.3 Advertise in the media a notice stating that the draft rates policy has been prepared for submission to council and that such policy is available at the various municipal offices and on the website for public inspection.
- 19.1.4 Property owners and interest persons may obtain a copy of the draft policy from the municipal offices during office hours at a fee as determined by Council as part of its annual tariffs. Property owners and interest persons are invited to submit written comments or representations to the municipality within the specified period in the notice.
- 19.1.5 Council will consider all comments and/or representations received when considering the finalisation of the rates policy.
- 19.1.6 The municipality will communicate the outcomes of the consultation process in accordance with section 17 of the Municipal Systems Act 32 of 2000.

**20. REGISTER OF PROPERTIES**

- 20.1 The municipality will compile and maintain a register in respect of all properties situated within the jurisdiction of the municipality. The register will be divided into Part A and Part B.
- 20.2 Part A of the register will consist of the current valuation roll of the municipality and will include all supplementary valuations done from time to time.
- 20.3 Part B of the register will specify which properties on the valuation roll or any supplementary valuation roll are subject to:
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