

RATES POLICY – 2010 - 2011

The Municipality has the power to levy a rate on property in its area.

Section 3 (1) of the Local Government: Municipal Property Rates Act 6 of 2004 (hereinafter referred to as the MPRA) and Section 62 (1)(f) of the Local Government: Municipal Finance Management Act 56 of 2003 (hereinafter referred to as the MFMA) provides that a Municipality should adopt and implement a policy on the levying of Rates on rateable property. Section 3 of the Act provides that the Rates Policy takes effect on the effective date of the first valuation roll prepared by the Municipality in terms of this Act. This document sets out the Policy of the eThekweni Municipality and must be read with the MPRA. In applying the rates policy the Municipality will meet the requirements of the MPRA and the MFMA, including any Regulations made under these Acts.

DEFINITIONS

In addition to the Definitions provided for in the Act the following Definitions apply for the purpose of this Policy.

“accommodation establishment” is as defined in the Municipality's Accommodation Establishment bylaws.

“Agricultural Property” means any land or buildings in respect of which there is current an agricultural certificate issued.

“Bed & Breakfast” means an accommodation establishment with less than or equal to 4 bedrooms available to guests.

“Billing Cycle” means the start of the cycle in which the account is printed to the date on which it falls due and payable.

“Guest-house” means an accommodation establishment with between 5 and 10 bedrooms available to guests.

“Senior Citizen” means a natural person who is over the age of sixty (60).

“Primary Property” means the property on which the owner permanently resides.

“School Not For Gain” means an Independent or Private School which enrolls learners in one or more grades between zero and grade twelve and is not subsidized, either wholly or in part, by the State.

“Public Benefit Organisation” means an organization as described in Section 30 of the Income Tax Act.

“Rate” means a tax on property which is imposed by the Municipality, as envisaged in Section 229 (1) (a) of the Constitution.

In addition to the persons defined in the Act, “owner” includes:

a) An owner in a Sectional Title Scheme who owns in addition to the residential unit, a garage, parking, granny flat or storage room, on separate Title, is deemed to be the owner of ONE property for the purposes of 7.2 and 7.3. herein;

b) An owner of two or more properties which are notiarially tied to each other, is deemed to be the owner of ONE property for the purposes of 7.2 and 7.3 herein;

c) Trustees and beneficiaries jointly, in the case of property in a trust;

d) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;

e) A judicial manager, in the case of a property in the estate of a person under judicial management;

f) A curator, in the case of property in the estate of a person under curatorship;

g) A lessee, in the case of a property that is registered in the name of the Municipality and is leased by it and obliges the lessee to pay rates; or

h) A buyer, in the case of a property that was sold by the Municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

“residential property” means adwelling, which forms a living unit that is used for human habitation purposes, or a multiple

number of such units on a property excluding a dwelling where more than one third of the total floor area is used for any purpose other than residential, or a hotel, accommodation establishment, Bed & Breakfast, guest house or similar, property leased on a daily basis.

“Special Rating Area” means a geographic area within which property owners agree to pay for certain services supplementary to those supplied by the Municipality. These services are financed by levying an additional rate, which is added to the rates bill of the property owners within the precinct.

“The Municipality” means eThekweni Municipality.

“Trading Services” shall include: Abattoir; Airport; property used by the Municipality's Electricity Department; Gas; Parking Areas/Buildings; Market Buildings; property used by the municipality's Water department

“Value of property” means the market value of the property as valued in terms of the Act.

1. ANNUAL ADOPTION OF THE POLICY

The Municipal Council shall review the Rates Policy, together with the Municipality's budget, annually.

2. LIABILITY FOR RATES

2.1 Rates levied on property must be paid by the owner of the property.

2.2 Joint owners are jointly and severally liable for payment of Rates on the property.

2.3 Service of accounts or documents or process on any one owner is deemed to be service on all owners.

3. AMOUNT DUE FOR RATES

The Municipality will, by resolution, as part of each annual operating budget process, determine a rate in the rand for every category of property.

4. METHOD AND FREQUENCY OF PAYMENT OF RATES

4.1 The Municipality shall recover a rate on a monthly basis in twelve (12) near equal instalments, together with any supplementary rates.

4.2 The Municipality may recover a rate annually, on application, from owners with fifty (50) or more property rates accounts.

4.2.1 Such application to reach the Municipality on or before 30 April of each year.

4.2.2 Such annual amount to be paid by 31 October of each year.

4.3 The Municipality may recover a rate annually for National and Provincial Government owned property.

4.4 The payment of rates shall not be affected by reason of objections, an appeal or non-compliance with the rates policy.

4.5 The Municipality may publish a number of Supplementary Valuation Rolls during the year, in accordance with Section 78 of the MPRA. The rates, as adjusted by the Supplementary Valuation Roll, will be levied accordingly.

5. CATEGORIES OF PROPERTY

5.1 The Municipality may levy different Rates for different categories of Property, the details of which are published in annexure A hereto.

5.2 The categories of property are determined according to the actual use of the property and the property shall be rated on such actual use.

5.3 A change in use may result in a change in the category of the property.

5.4 The Municipality does not value jura in re aliena (Rights in land) except:

i) Public Service Infrastructure;

ii) Rights of Extension in Sectional Title Schemes.

5.5 Differential rating among the various property categories may be executed by different rate randages for each property category.

5.6 The Municipality has determined the following categories of property:

- residential
- agricultural
- industrial
- business & commercial
- multiple use
- public service infrastructure
- vacant land
- Unauthorised or Illegal Development/Use

6. CATEGORIES OF OWNERS OF PROPERTY

6.1 The Municipality may, in terms of the criteria set out in this Policy :

- exempt a specific category of owners of properties, or the owners of a specific category of properties, from the payment of a rate levied on their property; or
- grant 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 rates payable in respect of their properties, as determined in 7. below.

6.2 The Municipality has determined the following categories of owners of property:

- Residential
- senior citizens
- disability grantees / medically boarded persons
- Child Headed Households
- owners of property situated within an area affected by a disaster within the meaning of the Disaster Management Act 57 of 2002
- land reform beneficiaries
- municipal
- sporting bodies
- public benefit organisations
- vacant land
- Nature Reserves / Conservation Areas
- Schools not for gain
- Bed & Breakfasts and Guesthouses
- Public Service Infrastructure

7. EXEMPTIONS, REBATES AND REDUCTIONS

The Municipality grants Exemptions, Rebates and Reductions, on categories of owners, based on local conditions and circumstances.

7.1 RESIDENTIAL PROPERTY

7.1.1 The MPRA imposes a R15 000 reduction in value of residential property.

7.1.2 The Municipality may grant an additional reduction on the valuation of residential property by resolution of Council at its annual budget. This further reduction is aimed primarily at persons owning low-cost properties and is an integral part of the municipality's indigent relief measures.

7.2 SENIOR CITIZENS

The aim of this rebate is to alleviate the burden on senior citizens who have a fixed income and limited resources. The rebate was granted to all senior citizens in the last two years to assist senior citizens to absorb the shift in incidence that arose from the MPRA. From the statistics that have been gathered, it is found that senior citizens who own property valued below R1.5million are in greater need of assistance. The Municipality will therefore embark on a programme to cap the values on which the rebate may be granted. In the next two financial years, the Municipality plans to cap the value of property on which rebates may be granted, as follows:

2010 / 2011 – R3 000 000

2011 / 2012 – R2 000 000

Further caps may be determined after the next general valuation. Further, the Municipality will no longer grant rebates on real rights. Senior Citizens who have been granted a rebate in terms of a Real Right will continue to enjoy the benefit until the next general valuation in 2012.

7.2.1 Senior Citizens may be granted a rebate on the primary property as determined by a resolution of Council at its annual budget, with effect from the next practical billing cycle following the date of application, subject to the following:

7.2.2 The Applicant must meet the following criterion

- He/She must be sixty (60) years or older;
- He/She must produce a South African bar coded identity docu-

ment;

c) He/She must be the owner of the primary property. This includes co-owners who are married to each other or property owned solely by either spouse;

d) In the case of joint ownership, all owners must meet the qualifying criteria in 7.2 or 7.3 (ie as a senior citizen / disabled / medically boarded person);

e) He/She must reside permanently on the primary property;

f) The water, electricity and rates accounts must be consolidated into the name of the applicant;

g) The value of the primary property must not exceed a value as determined by Council at its annual budget;

h) In the case of a Trust, The Trustee must meet all of the above criteria. A copy of the Title Deed must be produced;

i) Executors / Administrators of deceased estates, Liquidators and Trustees are excluded from the rebates.

7.2.4 The senior citizens rebate will lapse:

a) on death of the applicant;

b) On application for a Revenue Clearance Certificate which results in the alienation of the property;

c) when the Applicant ceases to reside permanently on the property;

7.2.5 Deferment of Rates for senior citizens.

With effect from the date of implementation of the MPRA (1 July 2008), the facility to defer rates for senior citizens has been removed. The following will apply to the rates previously deferred:

a) No new applications for deferment shall be accepted;

b) rates that have already been deferred shall remain so deferred provided that the accumulated amount of deferred rates and interest may not exceed 50% of the value of the property concerned;

c) The Deferment will lapse upon:

i) death of the owner, except where the property concerned has been inherited by and occupied by the surviving spouse;

ii) the expropriation, sale, disposal or alienation of the property;

or

iii) the failure of the applicant to reside permanently on the property.

d) Owners whose rates were previously deferred and who meet the qualifying criteria may apply for a pensioners rebate in terms of 7.2 above, for their current rates.

e) An application for the current rebate prevents future deferment.

7.3 DISABILITY GRANTEES / MEDICALLY BOARDED PERSONS

The intension of this rebate is to assist those people who have a physical or mental condition that constrains him/her from performing normal work related functions and as a consequence he/she is unable to find employment or unable to maximise his/her earning capacity. In the spirit of this, the Chief Financial Officer (CFO) or his nominee may hear representations where an application has been rejected. The Applicant may be required to submit to further medical examinations by a Municipal appointed medical practitioner, at the expense of the Applicant. The CFO or his nominee may make a decision, that is binding.

7.3.1 Disability Grantees / Medically Boarded persons may, on annual application, be granted a rebate, as determined by a resolution of Council at its annual budget, with effect from the next practical billing cycle following the date of application, subject to the following:

a) Disability grantees : the applicant must be in possession of a letter, issued by the Department of Social welfare, confirming receipt of a disability grant, OR a specialist medical practitioner confirming disability and inability to work;

b) Medically boarded persons: the applicant must produce a letter from the Applicant's relevant ex-employer or the underwriter for the employer confirming

medical boarding;

c) the applicant must produce a bar coded identity document;

d) the applicant must reside permanently on the primary property;

e) the applicant must be the registered owner of the primary property. This includes co-owners who are married to each other or property owned solely by either spouse;

f) Joint owners must each meet the above criteria or the criteria set out in 7.2 above.

g) The water, electricity and rates accounts must be consolidated into the name of the applicant;

h) In the case of a Trust, The Trustee must meet all of the above criteria. A copy of the Title Deed must be produced;

i) Executors / Administrators of deceased estates, Liquidators and Trustees of Insolvent Estates and temporary disability grantees are excluded from the rebates.

7.3.2 The rebate will lapse:

a) on death of the applicant;

b) On application for a Revenue Clearance Certificate and on alienation of the property;

c) when the applicant ceases to reside permanently on the property;

d) If a medically boarded person gains employment.

7.4 CHILD HEADED HOUSEHOLDS

Property shall be classified as a “Child Headed Household” if the minors in the household have been investigated by a social worker from the Department of Social Development and declared as such.

7.4.1 Such Child Headed Household may receive a rebate, as determined by a resolution of Council at its annual budget, from a date as determined by the Chief Financial Officer, subject to the following:

a) The terminally ill parent, the child or the deceased estate of the parent as aforesaid must be the owner of the property;

b) The Application must be accompanied by :

i) confirmation from the Department of Social Development that the above criterion have been met and that the property is one that is a Child Headed Household;

ii) if the parent is deceased:

• a copy of the letter of Executorship or Administration of the Deceased Estate;

• a copy of the Liquidation and Distribution Account showing transfer of the property to the minors;

• the death certificate of the parent;

iii) if the parent is terminally ill, a certified copy of the Medical Report confirming his status; and

iv) birth certificates of minors residing on the property.

c) The minors must reside permanently on the property;

d) The value of the applicants property must not exceed a value as determined by a resolution of Council at its annual budget;

e) Applications must be renewed annually by the Department of Social Welfare.

7.4.2 The rebate will lapse:

a) when the minor reaches the age of majority;

b) on alienation of the property;

c) when the minors ceases to reside permanently on the property;

d) if the Department of Social Development no longer regards the Household as being Child Headed.

e) if applications are not submitted annually; Late applications may be reinstated with effect from the next practical billing cycle.

7.5 NATURAL DISASTERS

Properties that have been damaged by a natural disaster, as defined in terms of the Disaster Management Act 57 of 2002, may be re-valued on application, as at date of such natural disaster, in accordance with the Act.

7.6 LAND REFORM BENEFICIARIES

In accordance with the Act, property belonging to a land reform beneficiary or his/her heirs is exempt from rates for ten (10) years from date on which the beneficiaries' title was registered in the office of the

Registrar of Deeds.

7.7 MUNICIPAL PROPERTIES Except for Trading Services and Housing suspensive sale agreements, property owned by the Municipality, or occupied by the Municipality for Development Housing, is exempt from paying rates.

7.8 SPORTING BODIES

7.8.1 Sporting bodies shall, on application, be rated on the value of the building area only.

7.8.2 The building area shall exclude change rooms and store rooms necessary for the sport.

7.8.3 Applicants must produce a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962).

7.9 PUBLIC BENEFIT ORGANISATIONS

7.9.1 The following Public Benefit Organisations may apply for the exemption of property rates:

i) Welfare & Humanitarian Institutions

Properties used exclusively as an orphanage, non-profit retirement villages or life – rights schemes, old age home or other non-profit institution for the benefit of the public or a section thereof, provided that any profits from the use of the property are used entirely for the benefit of the institution and/or to charitable purposes.

ii) Health Care Institutions Properties used exclusively as a hospital, clinic or mental hospital, provided that any profits from the use of the property are used entirely for the benefit of the institution and/or to charitable purposes.

iii) Animal Welfare Property registered in the name of and used by institutions/ organisations whose exclusive aim is to protect birds, reptiles and animals on a non-profit basis.

iv) cemeteries property used exclusively for the purposes of a cemetery or crematorium.

7.9.2 The above Exemptions shall be subject to the following conditions:

i) Applications must be in writing in the prescribed form and must reach the Municipality before 30 April ;

ii) Applicants must produce a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962);

iii) The Municipal Manager or his/her nominee must approve all applications;

iv) The Municipality retains the right to refuse an exemption if the details supplied on the application form are incomplete, incorrect or false;

v) the use of any land or buildings, or any part thereof, in terms of 7.9.1 above, shall not be for the private pecuniary benefit of any individual, whether as a shareholder in a company or otherwise;

vi) if during the currency of any financial year, any such land or building is used for any purpose other than the purpose for which it was so exempted, the Municipality shall impose rates thereon or on such portion so used, at a rate proportionate to the period of such use; and

vii) the applicant shall not be state owned.

viii) Once the Application is granted, the Applicant is required to submit annually, an affidavit confirming the use of the property.

7.9.3 Religious institutions - As required in terms of 17(1)(i) of the Act, 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.

7.10. VACANT LAND The Municipality may grant a reduction in market value of vacant land, as determined by Council at its annual budget.