



DRAFT

# RATES POLICY

## UMTSHEZI MUNICIPALITY

2015/2016

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## INTERPRETATION

### PREAMBLE

The Umtshezi Municipal Council has resolved to implement the Municipal Property Rates Act, 6 of 2004 (Act. No. 6 of 2004) [the MPRA] with effect from 1 July 2009. Section 3 of the MPRA requires the Municipality to adopt a policy consistent with the MPRA on the levying of rates on rateable property in the Municipality.

This Rates Policy for Umtshezi Municipality determines how properties are rated and must be read in conjunction with the MPRA and ancillary legislation.

The Umtshezi Municipality has resolved to levy rates on the market value of all rateable properties within its area of jurisdiction.

In terms of section 4 of the Local Government : Municipal Systems Act (Act 32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing inter-alia, rates on property and in terms of section 62 of the Local Government: Municipal Finance Management Act ( Act No 56 of 2003) the Municipal Manager must ensure that the municipality has and implements a rates policy.

### DEFINITIONS

Any words and phrases referred to in this policy shall have the same meaning and interpretation assigned in terms of the Municipal Property Rates Act 6 of 2004 ("the Act") and for this purpose lists hereunder the definitions used in the Act.

In this Act, unless the context indicates otherwise—

**"act"** means the Local Government Municipal Property Rates Act ( Act 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 property"** means property that is used for the production of crops, livestock or other generally recognized agricultural activities, together with those buildings which are also generally considered necessary for these agricultural activities as envisaged in section 8(2)(d)(i), (e) and (f)(i) of the Act:

**“agricultural property”** means a property used for agricultural purposes and shown as such in the valuation roll excluding a property used for the purpose of Eco-tourism or for The trading in or hunting of game.

**“agricultural purpose”**, in relation to the use of a property, excludes any portion thereof that is used commercially for the hospitality of guests, and excludes the use of the property for the purpose of Eco-tourism or for the trading in or hunting of game;

**“Arrear rates”** means any amount due for payment of rates which remains unpaid after the due date for payment

**“annually”** means once every financial year;

**“appeal board”** means a valuation appeal board established in terms of section 56;

**“assistant municipal valuer”** means a person designated as an assistant municipal valuer in terms of section 35 (1) or (2);

**“Bed & Breakfast”** means any residential or non commercial property used as a bed and breakfast / hospitality establishment

**“business or commercial property”** means

- (a) property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity;
- (b) property on which the administration of the business of private or public entities takes place;
- (c) property used for the provision of commercial accommodation;
- (d) property used for education purposes;
- (e) property used by the State or any organ of State ; or
- (f) property excluded from any other category of property

**“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 and rates policy;

**“commercial accommodation”** - means the supply or provision of accommodation or board and lodging, together with goods and services, in in any hotel, motel, inn, holiday accommodation, unit, chalet, tent, caravan, camping site or similar establishment which is regularly or systematically supplied.

**“communal property”** means a property where there is a single registered cadastral holding and where the property is held or developed predominately for Rural Residential purposes and which may be used for multiple purposes including agricultural property, state occupied property, residential, rural residential and non-residential property, which, in the case of a property used for multiple purposes, the use will be assigned to a category of property, the value apportioned and rates levied accordingly, as contemplated in section 9 (2) of the Act.

The communal property's land extent can vary and be adjusted according to deductions or the reinstatement of separate recognized property from rating due to the apportionment of values and adjustment of property.

**“constitution”** A body of fundamental principles or established precedents according to which our State is governed and as embodied and promulgated per Act 108 of 1996.

**“child”** means a person 18 years or younger

**“child headed household”** - means any child of the owner of the property who is responsible for the care of siblings or parents and recognized in terms of Section 137 of the Children's Amendment Act, 41 of 2007.

**“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);  
 - day means when any number of days are prescribed for the performance of any act, those days must be reckoned by excluding the first and including the last day, unless the last day falls on a Saturday, Sunday or any public holiday, in which case the number of days must be reckoned by excluding the first day and also any such Saturday, Sunday or public holiday.

**“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;

**“disabled”** means a person who qualifies to receive relief in terms of the Social Services Act, 1992 (Act No. 59 of 1992) or has been certified as disabled by a medical practitioner; and qualifies in terms of the income threshold as defined in the Council's Customer Care Policy;

**“dominant use”** in relation to a property means a property used for more than one purpose subject to section 9 (1)(b) and the following criteria applies.

- (a) A dominant use approach may be applied to developed property located within the area of an approved townplanning scheme granted in terms of any planning law
- (b) The dominant use is the highest percentage use of all actual uses determined by gross building area;
- (c) The dominant use category of property will then be applied to the levying of rates.
- (d) Dominant use may not be used for Communal Property used for multiple purposes where there is a large surplus land component, or for property where there is rateable and non-rateable portions.

**“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);

**“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;

**“equitable treatment of ratepayers”** means the fair, just and impartial treatment of all ratepayers;

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

**“guest house”** means a commercial accommodation establishment with between 5 and 10 bedrooms available to guests;

**“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 a land tenure right as defined in section 1 of the Communal Land Rights Act, 2004;(Act No 11 of 2004) Upgrading of Land Tenure Rights Act, 1991 (Act 112 of 1991) which reads as follows:-

(vii) “land tenure right” means any leasehold, deed of grant, quitrent or any other right to the occupation of land created by or under any law and, in relation to tribal land, includes any right to the occupation of such land under indigenous law or customs of the tribe in question”

**“legal entity”** in law an entity is something which is capable of bearing legal rights and obligations, has a distinct separate existence.

**“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 organizations and non-governmental, private sector or labour organizations 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

**“informal residential properties”** in relation to properties, means properties improved with informal structures such as wattle and daub shacks or other rudimentary shelters

**“indigent owner”** means an owner of low – cost property who is in permanent occupation of the property and qualifies for indigent relief terms of the municipality’s indigent policy.

**“industrial”** means property used for a branch of trade or manufacturing, production, assembly or processing of finished or partially finished products from raw material or fabricated parts in respect of which capital and labour are involved, and includes

- (a) the production of raw products on the property;
- (b) the storage and warehousing of products;
- (c) any office or other accommodation on the same property the use of which is incidental to such activity.

**“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;

**“mining property”** means a property on which an operation or activity of extracting minerals is used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 ( Act no 28 of 2002).

**“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, subject to section 9 (1)(c), 8 (2) (r) and subject to apportionment of value in terms of 9 (2), where the value is apportioned based on the different purposes for which the property is being used and applying the rate applicable to the categories determined by the municipality.

This approach is suitable for property outside the area of a town planning scheme and used for more than one purpose, urban property within the area of a town planning scheme used for more than one purpose and where there is a large surplus land holding, and for property which has both rateable and non-rateable portions. The valuer will determine the categories of property and the applicable apportioned values of each different use for the levying of rates.

**“municipal council” or “council”** means the municipal council of Umtshezi in terms of 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);

**“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, 1988 (ACT No 117 of 1998);

**“municipal owned property”** means property owned by the municipality;

**“municipal leases”** means property owned by the municipality and leased to another party. The municipality reserves the right to recover municipal rates against all properties registered in the name of the municipality over which a portion or all of its property is leased either through an existing lease agreement where rates are exclusive or through the provisions of the Act. Rates payable will be based on the rates category and market value as contained in the valuation roll.

**“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);

**“municipal valuation”** means a valuation of a rateable property within the municipal area by the municipal valuer in terms of the Act.

**“MPRA”** means the Municipal Property Rates Act, No 6 of 2004;

**“national building regulations”** means the National Building regulations and standard Act No 103 of 1977, as amended.

**“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;

**“non-profit organization”** means any organization which is registered in terms of the Non-profit Organizations Act

**“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;

**“office bearer”**, in relation to places of public worship; means the primary person who officiates at services at the place of worship;

**“official residence”**, in relation to places of public worship, means

- (a) a portion of the property used for residential purposes; or

- (b) one residential property, if the residential property is not located on the same property as the place of public worship, registered in the name of a religious community or
- (c) registered in the name of a trust established for the sole benefit of a religious community and used as a place of residence for the office bearer

**“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;
- (bA) in relation to a time sharing interest contemplated in the Property Time-sharing Control Act, 1983 ( Act no 75 of 1983), means the management association contemplated in the regulations made in terms of section 12 of the Property Time-Sharing control Act 1983, and published in government Notice R327 of 24 February 1984
- (bB) in relation to a share in a share block company, the share block company as defined in the Share Blocks Control Act, 1980 (Act No 59 of 1980)
- (bC) in relation to buildings, other immovable structures and infrastructure referred to in section 17 (1)(f), means the holder of the mining right or the mining permit
- (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 curator ship;
- (vi) a person in whose name a *usu-fructus* or other personal servitude is registered, in the case of a property that is subject to a *usu-fructus* 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
- (viiA) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right;

**“owners of property in an area affected by a disaster”** means owners of property situated within an area affected by:

- (a) a disaster within the meaning of the Disaster Management Act 57 of 2002;
- (b) any other serious adverse social or economic conditions

**“pensioner”** - means

- (a) a person 60 years or older ; or
- (b) a person who has been medically boarded;
- (c) does not own another property within the municipality
- (d) who is the sole owner of the property, or owner jointly with his/her spouse

**“primary property “** means the property at which the owner permanently resides;

**“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
- (b) any legislation applicable to any specific property or properties; or
- (c) any alleviation of any such restrictions;

**“person”** includes an organ of state;

**“place of public worship”**, means property registered in the name of and used primarily as a place of public worship by a religious community, excluding a structure that is primarily used for educational instruction in which secular or religious education is the primary instructive medium :

Provided that the property is :-

- (a) registered in the name of the religious community;
- (b) registered in the name of a trust established for the sole benefit of a religious community; or
- (c) subject to a land tenure right;

**“prescribe”** means prescribe by regulation in terms of section 83 of the 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;

**“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 those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the National Environmental Management: Biodiversity Act, 2004; which are not developed or used for commercial, business, residential or agricultural purposes.

**“public benefit organization property”** means property owned by public benefit organizations and used for any specified public benefit activity listed in item 1 (welfare and humanitarian), item 2 (health care), and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act.

**“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; NO 32 of 2000.

**“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;
- (d) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (e) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (f) railway lines forming part of a national railway system;
- (g) communication towers, masts, exchanges or lines forming part of a communications system serving the public ;
- (h) runways, (or) aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding these, which must be vacant for air navigation purposes ;
- (i) 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;
- (j) any other publicly controlled infrastructure as may be prescribed; or
- (k) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);

**“public service purposes”** in relation to the use of a property, means property owned and used by an organ of state as

(a) hospitals or clinics

(b) schools, pre-schools, early childhood development centres or further education

& training colleges;

(c) national and provincial libraries and archives;

- (d) police stations;
- (e) correctional facilities; or
- (f) courts of law,

but excludes property contemplated in the definition of public service infrastructure;

**“rate”** means a municipal rate on property envisaged in section 229 (1) (a) of the Constitution; 1996

**“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;

**“ratio”** in relation to section 19, means the relationship between the cent amount in the Rand applicable to residential properties and different categories of non-residential properties. Provided that the two relevant cent amounts in the Rand are inclusive of any relief measures that amount to rebates of a general application to all properties within a property category; and

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

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

**“register”**— means to record in a register in terms of :-

- (a) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
- (ii) the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and
  - 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 dwelling used for living purposes which forms a living unit that is used as a dwelling for human habitation purposes, or a multiple number of such units but excludes :

- (a) a hotel, or the supply of commercial accommodation,

but is included in a valuation roll in terms of section 48 (2) (b) as residential; in respect of which the primary use or permitted use is for residential purposes without derogating from section 9;

**“right of Extension”** means a right of extension registered in terms of a Sectional Title Scheme

**“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;

**‘specialized properties’** means property including national monuments, schools (both state & private), creches, cemeteries/crematorium, prisons, law courts, libraries, military bases, police stations, sports clubs including stadiums, public open spaces including parks and vacant land associated with these uses.

Other non-market property uses may be assigned to this category by the municipal valuer.

**“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; 1962 (Act No 55 of 1962).

**“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
- (a) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

**“threshold value”** with reference to impermissible rates and Section (17) (1) (h) of the MPRA a municipality may not levy a rate on the first R15,000 of the market value of a property with a category residential and a Council may increase this value to a higher market value in terms of its annual budget and policy review, which is referred to as the threshold value;

**“vacant land”** means any unimproved vacant land, which is not agricultural property. Any vacant land outside the area of a scheme for which no development rights have been granted in terms of any planning law must be considered as agricultural property and valued accordingly.

The value of vacant land must reflect:-

- (a) the highest and best use permitted by the scheme, including and consent granted in terms thereof, if the land is situated in the area of a scheme;
- (b) the highest and best use permitted in terms of a development approval, if the land does not form part of the area of a scheme, but development rights have been granted in respect of the land;

**“unauthorized immovable” / “improvement / development”** means any use of a property which is inconsistent with or in contravention with the permitted use of the property or any immovable improvement / development or building erected without approval of the municipality in terms of the National Building Regulations and building standards Act No 103

of 1977 as amended and other related legislation;

**“this Act”** includes regulations made in terms of section 83 of the Local Government Municipal Property Rates Act No 6 of 2004.

- (a) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

**“unemployed”** - means any person who qualifies in terms of the municipality's indigent policy

## **1 POWER TO LEVY RATES**

The Municipality may levy rates on all rateable property within its area of jurisdiction and may grant rates relief in terms of this policy or in terms of national framework prescribed under the Act. In levying rates the Municipality is not obliged to levy rate on properties of which it is the owner, or public service infrastructure owned by it or 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 racially discriminating laws or practice.

## **2 EXERCISE OF POWER IN TERMS OF LEGISLATION**

A Municipality must exercise its power to levy rate on property subject to:

- (a) Section 229 and other applicable provisions of the Constitution
- (b) The provisions of the MPRA
- (c) Its Rates Policy and Rates By-laws



**3 IMPLEMENTATION OF AND EFFECTIVE DATE**

- 3.1. The Rates Policy shall take effect from 1 July 2009 being the effective date of the first valuation roll prepared by the municipality in terms of the MPRA and must accompany the municipality's budget for the financial year.
- 3.2. The Rates Policy will be reviewed annually, and if necessary amended by the Municipality such amendments to be effected in conjunction with the Municipality's annual budget in terms of Sections 22 and 23 of the Municipal Financial Management Act.
- 3.3. The Municipality must adopt and publish by-laws, in terms of Sections 12 and 13 of the Municipal Systems Act, to give effect to the implementation of its rates policy and must be read in conjunction with this policy. The rates by-laws may differentiate between:
  - 3.3.1 categories of properties; and
  - 3.3.2 categories of owners of properties.
- 3.4. The rates by-laws adopted in terms of Item 3.3 may be reviewed annually, and if necessary be amended by the Municipality, in conjunction and in accordance with the Rates Policy.

**4. THE PURPOSE OF THIS POLICY**

The purpose of this policy is to:

- 4.1 ensure compliance with the provisions section 3 of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004);
- 4.2 determine the methodology and the prescribed procedures for the implementation of the Act;
- 4.3 determine criteria to be applied for the levying of differential rates for different categories of properties; and levies different rates for different categories of properties determined in terms of section 8;
- 4.4 determine or provide criteria for the determination of categories of properties and categories of owners of properties;

4.5 determine the principles and criteria to be applied for granting relief from payment of rates;

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4.6 determine how the municipality's powers must be exercised in relation to multipurpose properties;

4.7 determine how the municipality's powers must be exercised in relation to levying differential rating

4.8 increases or decreases rates

4.9 in respect of agricultural property, give effect to the regulations promulgated in terms of section 19 (1)(b)

4.10 A resolution levying rates in a municipality must be annually promulgated, within 60 days of the date of the resolution, by publishing the resolution in the Provincial Gazette.

4.11 The resolution must

1. Contain the date on which the resolution levying the rates was passed;
2. Differentiate between categories of properties; and
3. reflect the cent amount in the rate for each category of property.

## **5 EQUITABLE TREATMENT OF RATEPAYERS**

Umtshezi Municipality is committed to treating all ratepayers on an equitable basis. "Equitable" does not necessarily mean "equal" treatment of ratepayers. The Municipality may adopt measures to ensure equitable and fair treatment of ratepayers. Any differentiation in levying rates must not constitute unfair discrimination.

## **THE VALUATION ROLL AND RATING**

### **6. EFFECTIVE DATE OF VALUATION ROLL**

The Valuation Roll takes effect from 1 July 2013 and may remain valid for 4 subsequent financial years, as the Municipality may decide, up to the maximum period determined by the Act. It is recorded that the maximum period is currently 4 (four) financial years.

### **7. DATE OF VALUATION**

The Date of Valuation is 1 July 2012.

**8. GENERAL BASIS OF VALUATION**

All properties are valued at market value in terms of the provisions of section 46 of the MPRA.

8.1 When levying rates, a municipality must, subject to subsection (2), levy rates on all rateable property in its area (or, in the case of a district municipality, on all rateable property in the district management area)

8.2 In assessing the market value, the Municipal Valuer may take cognizance of any guidelines or recommendations issued by the South African Institute for the Valuers, the KwaZulu-Natal Department of Local Government and Traditional Affairs and/or the National Department of Local Government or any other recognized government or Institution

**9. RATE RANDAGE**

The Municipality will, by resolution, as part of each annual budget process, determine a rate as a cent in the rand, based on the property value appearing in the valuation roll applicable to that financial year.

**10. DIFFERENTIAL RATING**

10.1 Differential rating is the levying of different rates for different categories of properties. The Municipality may levy differential rates for different categories of rateable property properties as identified in this policy and the rates applicable to the different categories of properties are as resolved by the council and published in the Government Gazette.

In addition to the categories of rateable property determined in terms of Section 8 subsection (2), a municipality may determine additional categories of rateable property, including vacant land : provided that, with the exception of vacant land, the determination of such property categories does not circumvent the categories of rateable property that must be determined in terms of subsection (2).

**11 DECISIONS REGARDING RATING**

- 11.1 In implementing the MPRA, the Municipality may apply the following principles with regard to rating:
  - 11.1.1 that the category of property will be determined based on the actual use of the property. A change of use may result in a change in the category of property.
  - 11.1.2 that multiple purpose properties will be assigned to a category in terms of section 8 (2)(r)(i) .
  - 11.1.3 that it may rate public service infrastructure.
  - 11.1.4 that in terms of the act, to regard the following persons as the owner of a property in the following case
    - 11.1.4.1 A trustee, in the case of a property in a trust excluding state trust land;
    - 11.1.4.2 An executor or administrator, in the case of property in a deceased estate;
    - 11.1.4.3 A trustee or liquidator, in the case of of a property in an insolvent estate or in liquidation.
    - 11.1.4.4 A judicial manager , in the case of property in the estate of a person under judicial management;
    - 11.1.4.5 A curator, in the case of a property in the estate of a person under curator ship;
    - 11.1.4.6 Persons in whose name the following personal rights are registered;
    - 11.1.4.7 Holders of a right of extension registered in terms of a sectional title scheme;
    - 11.1.4.8 A lessee, in the case of property that is registered in the name of a municipality and is leased by it who shall be deemed to be the owner from the date of commencement of the lease and be rated;
    - 11.1.4.9.1 A buyer, in the case of property that was sold by the municipality who shall be deemed to be the owner from the date of disposal pending registration of ownership in the name of a buyer and shall be rated.
- 11.2 That it may rate a Real Right of Extension.
- 11.3 A rate levied for a financial year may not be increased during a financial year as provided for in section 28(6) of the Municipal Finance Management Act

**12. CATEGORIES OF PROPERTIES AND VALUATION**

- 12.1 Every property will be assigned to a category in the valuation roll, and will be valued and rated according to that category.
- 12.2 In determining the categories of properties based on actual use, the Municipality has determined the following categories:
  - 12.2.1. Properties used for agricultural purposes
  - 12.2.2. Commercial and business
  - 12.2.3. Industrial
  - 12.2.4. Residential and Informal Residential Properties
  - 12.2.5 Municipal use
  - 12.2.6. Public Service Infrastructure
  - 12.2.7. State and Trust Land
  - 12.2.8 Properties on which national monuments are proclaimed and
  - 12.2.9 Properties used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act
    - 12.2.10 Properties used for multiple purposes
    - 12.2.11. Properties used for crèche purposes
    - 12.2.12. Properties used for clinic purposes
    - 12.2.13 Properties used for library purposes
    - 12.2.14 Properties used for post office purposes
    - 12.2.15 Properties used for police station purposes
    - 12.2.16 Properties used for magistrates courts
    - 12.2.17 Properties used for education purposes
    - 12.2.18 Properties used for place of worship purposes
    - 12.2.19 Properties used for sport facility purposes
    - 12.2.20 Properties used for cemeteries
    - 12.2.21 Properties used for racetrack
    - 12.2.22 Properties used for quarry
    - 12.2.23 Properties used for zoo and/or game reserve
    - 12.2.24 Sectional Title properties

12.2.25 A Real Right of Extension registered in terms of a Sectional Titles Scheme

12.2.26 Bed and Breakfast establishments

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12.2.27 Rural Communal Land

12.2.28 Properties used for Nature Reserve/ or National Park

12.2.29 Properties used for Recreational Clubs

12.3 In determining whether a property is used for agricultural purposes, cognizance shall be taken of the following:

12.3.1 Whether the usage is that of a bone fide farm by way of a business or commercial farming

12.3.2 Whether the dominant use excludes any of the categories listed in 12.2.1 to 12.2.29 above.

12.3.3 Whether the property has been zoned for agricultural usage;

12.3.4 The usage reflected on the aerial photography of the property, the adjacent properties and properties in the immediate proximity;

12.3.5 Whether the property is situated outside of a township and/or is regarded as being a "rural" property

12.3.6 The access to the property;

12.3.7 Whether the property is subject to the provisions of the Subdivision of Agricultural Land Act 1970 (Act No. 79 of 1970)

### **13 MULTIPLE PURPOSE PROPERTIES**

13.1 Properties used for multiple purposes will be categorized according to the dominant usage.

13.2 In considering what constitutes the dominant use, the Municipal Valuer will assess the primary use to which the property is put and determine the category of use based on this primary usage. In assessing what constitutes the primary/ dominant usage the Municipal Valuer shall:

13.2.1 establish the largest measured extent under the primary usage (land and/or buildings) and assign that usage to the applicable category in clause 12 above; or

13.2.2 determine the highest gross rental of usage (land and/or buildings) and assign that usage to the applicable category in clause 12 above; or as the case maybe;

13.3 Once the multiple purpose property has been assigned to its category of usage:

13.3.1 the value will be assessed based on that usage; and

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13.3.2 The rate randage applicable to that category of property will be applied for rating purposes

13.4 The provisions of sub paragraphs 12.3.1- 12.3.2 shall not apply to Rural Communal and State Trust land.

13.5 In determining the category into which vacant land shall fall, the following criteria shall be applied:

13.5.1 If the property is being used, it shall be assigned to the category for which it is being used;

13.5.2 If the property is not being used, and it is zoned, it shall be assigned to category which most closely matches the zoned usage;

13.5.3 Where the property is not zoned it shall be assigned to the category based on its highest and best potential as determined by the Municipal Valuer.

13.6 In the case where the dominant use is exempt from the payment or rates, and the remainder of the property is used for another purpose/s, the remainder will be assessed on that usage/s and categorized as a multiple use.

13.7 In the case of State and Trust Land and Rural Communal Land the different usage will be assessed pro-rata and assigned to a category.

#### **14 IMPERMISSIBLE RATES IN TERMS OF THE ACT**

14.1 It is recorded that the Municipality may not, in terms of section 17 of the Act levy a rate on

14.1.1 the first 15% of the market value off residential property and the first 30% of the market value of public service infrastructure;

14.1.2 those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004, which are not developed or used for commercial, business, agricultural or residential purposes. The exclusion from rates of

such a property lapses if the declaration of that property as a special nature reserve, national park, nature reserve or national botanical garden, or as part of such a reserve, park or botanical garden, is withdrawn in terms of the applicable legislation and as provided in the MPRA.

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14.1.3 mineral rights within the meaning of the definition of "property" in section 1

14.1.4 a property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses ten years from the date on which such beneficiary's title was registered in the office of the Registrar of Deeds

14.1.5 on a property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship.

**15. NEWLY RATED PROPERTY**

Any property which was not previously rated will be phased in subject to the conditions that:

15.1. property registered in the name of a land reform beneficiary will be phased in after the exclusion period in section 17(1) (g) of the Act;

Applicable rates for properties to be phased in over three years

| <b>Year</b> | <b>Percentage</b> | <b>Rates Payable</b> |
|-------------|-------------------|----------------------|
| First       |                   | 25%                  |
| Second      |                   | 50%                  |
| Third       |                   | 75%                  |

**16 MUNICIPAL OWNED PROPERTY**

Property owned by the municipality will not be rated except where the Municipal property has been leased or sold as provided for in 6.1.9.12 and 6.1.9.13 in which event the lessee or purchaser shall be liable for the payment of the rates



## RATES RELIEF

### 17. RATES RELIEF

When granting relief in terms of section 15 – subsection (1) exemptions, rebates or reductions in respect of owners of categories of properties, a municipality may determine such categories in accordance 8(2) and subsection (2A); and in addition to the categories of rateable property determined in terms of section 8(2), a municipality may, subject to any ratio determined in terms of section 19, for the purpose of granting exemptions, rebates and reductions., determine such property categories based on -

- (a) properties used for public service purposes; and
- (b) properties to which the provisions of the National Heritage Resources Act, 1999 (Act No 25 of 1999) apply, or an institution that has been declared to be subject to the Cultural Institutions Act, 1998 (Act No 119 of 1998)

17.1 The municipality has considered the need to grant relief to certain ratepayers (including the poor) with a view to providing for appropriate measures to alleviate the impact of the rates burden on them;

17.2 The municipality may only grant rates relief in the form of :

17.2.1 a rebate of the rates; and/or

17.2.2 a reduction in the property value on which rates will be raised;

17.2.3 an exemption from rating

17.3 Rates relief may only be granted to:

17.3.1 a category of property, or

17.3.2 a category of owner of property.

and the municipality may not grant relief to the owners of properties on an individual basis.

### 18 CATEGORIES OF OWNERS ENTITLED TO RELIEF

18.1 The municipality has identified the following *categories of owners* below who may benefit from rates relief :

- 18.1.1 indigent owners
- 18.1.2 a person who has been medically boarded;
- 18.1.3 pensioners;
- 18.1.4 unemployed
- 18.1.5 owners of property situated within an area affected by:
  - 25
  - a disaster within the meaning of the Disaster Management Act 57 of 2002;
  - 18.1.5.2 any other serious adverse social or economic conditions;
- 18.1.6 owners of residential properties below a market value determined by the Municipality;
- 18.1.7 Public benefit organizations who conduct the following specified public benefit activities:
  - 18.1.7.1 welfare and humanitarian; or
  - 18.1.7.2 health care; or
  - 18.1.7.3 education; and
  - 18.1.7.1 are registered in terms of the Income Tax Act for tax reductions because of the specified public benefit activities
- 18.1.8 non-profit organizations registered in terms of the Non-Profit Organizations Act whose activities are that of a public and charitable nature as may be specified by the Municipality from time to time;
- 18.1.9 minor children who are the head of a household as defined in child headed household;
- 18.1.10 disabled persons;
- 18.1.11 any other category as maybe determined by the Municipality by resolution.

**19 EXEMPTIONS**

EXEMPTIONS GRANTED TO CATEGORIES OF PROPERTIES

The Municipality may exempt in total, from payment of rates the following categories of properties:

- 19.1 Property registered in the name of and used primarily as a place of public worship by a religious community including one official residence also registered in the name of that community, which is occupied by an office bearer who officiates at services at that place of public worship.

- 19.2 Property which may be registered in the name Of the Ingonyama Trust Board, the State or a Trust, which is used primarily as a place of public worship by a religious community including an official residence, which is occupied by an office bearer who officiates at services at that place of public worship.

**EXEMPTIONS GRANTED TO CATEGORIES OF OWNERS OF PROPERTIES**

20. The Municipality may exempt from the payment of rates any of the categories of owners of properties identified in clause 18 above. The provision of clause 24 below shall apply to the grant of exemptions in terms of this clause.

**21. REDUCTIONS**

- 21.1 It is recorded that the municipality is precluded from levying rates on the following categories determined by the municipality:
- 21.1.1 the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality for residential properties in terms of section 17(1)(h) of the Act;
- 21.1.2 the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality for multi purposes, relating to that portion used for residential purposes only;
- 21.1.3 On the first 30% of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality for Public Service Infrastructure in terms of section 17(1)(a) of the Act
- 21.2 The municipality may in its discretion further reduce the value upon which rates will be levied by an amount determined by the Municipality by resolution of the council at its annual budget in respect of residential properties.

21.3 The municipality may in addition reduce the value upon which rates will be levied by a further R15,000 as determined by the municipality by resolution of the council at its annual budget in respect of residential properties.

21.4 On any property referred to in paragraphs (a),(b),(e),(g) and (h) of the definition of “public service infrastructure”

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## 22 RATES REBATES

### REBATES FOR CATEGORIES OF PROPERTIES

22.1. The municipal Council may at its annual budget resolve to grant rebates to any of the categories of properties as determined in this policy.

22.2 The Municipality may grant a lifeline benefit rebate on residential properties up to a value determined by a resolution of Council at its annual budget taking cognizance of the principle that such rebates shall address the indigent.

22.3 The provisions for clause 24 below shall apply to the grants of any rebates in terms of clause of 22.2

22.4 The Municipality may grant an additional rebate to properties used for hospitality / tourism as bed and breakfast establishment in additional to any rebates granted to the category of properties provided that

22.4.1 The hospitality established as licensed as required in terms of any legislation and

22.4.2 The bed and breakfast establishment is registered with the Tourism authority

22.4.3 The relief will only be granted on application upon proof of the requirements determined above and any other requirements set by the Municipality.

## 23 REBATES FOR CATEGORIES OF OWNERS OF PROPERTIES

23.1 The municipality may by resolution of the council at its annual budget, grant rebates in respect of rates payable on the *primary* residence, to the categories of owners of properties identified in clause 18 Above, in addition to the rebate granted to the category of properties in 22 above:-

23.2 In order to qualify for the rebates in terms of the above the applicant must be a

23.2.1 the registered owner of the property and;

23.2.2 be the sole owner of the primary property or owned jointly with his/her spouse

23.2.3 be living permanently on the property;

23.3 The provision for clause below shall apply to the rebates in terms of clause 18

## **24 APPLICATION FOR RELIEF**

24.1 Relief in terms of clauses 21.2, 22.2, and 23.1 shall only be granted on an annual basis upon written application on the prescribed form as follows:

24.1.1 by lodging an application in the prescribed manner with the Municipal Manager on or before the date specified by the Municipality.

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24.1.2 In the case of public benefits organizations upon proof of:-

- (a) registration in terms of the requirements of the Income Tax Act,
- (b) an affidavit signed by the chairperson or secretary of the public benefit organization or non-profit organization before a Commissioner of Oaths that that the property is used primarily for the specified public benefit activities and purposes of the public benefit organization.

24.1.3 In the case of a religious community upon proof of submission:

- (a) that the property is used primarily as a place of public worship; and
- (b) an affidavit signed by the person officiating at the place of worship that the property occupied as the residence is occupied by the office bearer who officiates at services at that place of worship;

24.1.4 In the case of properties owned by non profit organizations upon proof of submission

24.1.4.1 The non profit organization is registered as such in terms of the Non Profit Organizations Act as amended ,

24.4.2 An affidavit signed by the chairman or secretary of the non profit organization before a commissioner of Oaths that the property is used primarily for the aims and objective of the said Non Profit Organization, no private pecuniary profit is made from the property ;that no rent is received by the applicant and the property is not used for any other purpose]

24.1.5 In the case of natural person upon proof of the following:

24.1.6 that the property is registered in the sole name of the applicant or is owned jointly with her/her spouse by producing a copy of a title deed issued by the Deeds Registry within the last 2 months;

24.1.7 an affidavit signed by the applicant that:

24.1.7.1 he/she is living permanently on the property that no rent is received by the applicant and the property is not used for any other purpose.

24.2 The Municipality reserves the right to specify such other requirements as it deems necessary from time to time.

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## **25 WITHDRAWAL OF RELIEF**

25.1 The entitlement to rates relief terminates immediately if :-

25.1.1 the applicant no longer qualifies for the relief; and/or

25.1.2 the provisions and requirements of this policy are contravened in any manner, and/or the category of property or category of owner of property no longer meet/s the specifications required for such rebate, reduction of exemption; and/or.

25.1.3 the applicant has omitted to disclose any material information in the application, and/or has misrepresented any disclosure the application; and/or

25.1.4. that no rent is received by the applicant; and/or.

25.1. the property is not used for any other purpose.

25.2 In the event that rates relief has been extended after the rates relief has terminated as provided for in 25.1 above, the owner will be liable to pay the rates due from the date of termination of the relief and such rates will be deemed to be arrear rates.

25.3 The onus rests with the owner or applicant to notify the municipality in writing immediately of its change of status or that it no longer qualifies for the relief.

## **PAYMENT AND COLLECTION OF RATES**

### **26 LIABILITY FOR PAYMENT OF RATES**

26.1 The following persons shall be liable for the payment of rates levied by the Municipality:

26.1.1 the owner of a property;

26.1.2 joint owners of a property, who shall be liable jointly and severally;

26.1.3 The rate levied by a municipality on a sectional title unit is payable by the owner of the unit or the holder of a right contemplated in section 25 or 27 of the Sectional Titles Act. A municipality may not recover the rate on a sectional title unit, or on a right contemplated in section 25 or 27 of the Sectional Titles Act registered against the sectional title unit, or any part of such rate from the body corporate controlling a sectional title scheme, except when the body corporate is the owner of any specific unit, or the holder of such right.

26.1.4 The holder of Right of Extension in a Sectional Title Scheme

26.1.5 In relation to agricultural properties

26.1.5.1 any one joint owner of the agricultural property for all the rates levied on the agricultural property; or

26.1.5.2 each individual joint owner for that portion of rates levied on the joint owner's undivided share in the agricultural property, whichever option the Municipality may choose in relation to agricultural properties;

26.1.5.3 Any owner identified in clause 3 above

## **27 PAYMENT OF RATES ON SECTIONAL TITLE PROPERTIES**

27.1 A municipality may not recover the rate on a sectional title unit, or any part of such rate, from the body corporate, controlling a sectional title scheme, except when the body corporate is the owner of any specific sectional title unit.

27.2 A rate levied by the Municipality on a Sectional Title unit is payable by the owner of the unit controlling the Sectional Title Scheme with effect from the 1 July 2013. The owners of the units shall be liable jointly and severally for any unpaid rates accrued prior to 1 July 2013.

27.3 A body corporate controlling a sectional title scheme may not apportion and collect rates from the owners of the sectional title units in the scheme.

## **28. NOTICE TO OWNERS**

28.1 The Municipality will furnish each person liable for the payment of rates with a written account which shall contain the following information:

- (a) The amount due for rates payable;
- (b) The date on or before which the amount is payable;
- (c) How the amount was calculated;
- (d) The market value of the property;

(e) If the property is subject to any compulsory phasing in discount in terms of Section 21 of the Act, the amount of the discount;

(f) If the property is subject to any additional rate in terms of Section 22 of the Act, the amount due for additional rates.

28.2. Any person liable for the rate in respect of rateable property must furnish the Municipality with an address where correspondence can be directed to within the Republic to which accounts and notices in respect of such property shall be sent.

28.3. Any account and/or notice which the Municipality is required to send or give in terms of the Municipal Systems Act and the regulation thereto shall be deemed to have been properly given if it has been sent by pre-paid post:

(i) to the address of the property shown in the valuation roll;

(ii) to an address specified by the person in terms;

(iii) To an address which appears to be the residential or business address of the person liable for the payment of the rate, according to the records of the Municipality, and which method of posting shall be utilized if sub-paragraphs (i) and (ii) do not apply or if any notice posted in terms of the said sub-paragraphs has been returned and undelivered.

(iv) If it has in fact come to the notice of the person to whom it is required to be given;

(v) by affixing on the notice board of the Municipality for a period of at least 30 days, a schedule containing the name of the person who is liable for payment of rates as shown on the valuation roll.

28.4. Where a property in respect of which a rate is payable, is owned by more than one person and either or both of whom are liable for the payment of a rate on such property, the notices required to be given in terms of this Section shall be deemed to have been properly given if posted or delivered to the address of one of such persons, provided that such person may agree amongst themselves to which address such notices shall be posted or delivered and may notify the Municipality accordingly, in the manner provided for in subsection (i) above.

28.5. Any person who is liable for payment of a rate but who has not received an account shall:

28.5.1 Notify the municipality of the address for the receipt of accounts



28.5.2 Not be absolved from paying the amount owing by due date, and any amount outstanding after such date shall attract interest and collection charges as provided for herein, the rates by-laws or the municipality's credit control policy.

28.5.3 If any person who is liable for payment of a rate does not receive an account, such person shall obtain a copy of such account from the offices of the Municipality, before the due date for payment of the account;

28.5.4 Any person who is liable for the payment of a rate shall notify the Municipality of any change of address or other contact details in writing;

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28.5.5 A change of address referred to above shall take effect on receipt thereof by the Municipality;

28.5.6 If any person who is liable for the payment of a rate does not receive an account as a result of the person's failure to notify the Municipality of the change of address, such person shall nevertheless pay the amount owing by the due date.

## **29 METHOD AND TIME OF PAYMENT**

29.1 The Municipality may recover rates on a monthly basis over a 12 (TWELVE) month period for the financial year which rate must be paid by:

29.1.1 the 28<sup>th</sup> day of the month.

29.1.2 or the date determined by the municipality in its sole discretion in the case where an extension of time as may be granted in writing to any approved applicant.

29.2 Interest shall be payable on any rates remaining unpaid after the final date for payment calculated at a rate to be determined by the Municipality by resolution, and shall be added for each month during which the default continues. For the purposes of raising interest, part of a month shall be deemed to be a month.

29.3 The final date for the payment of rates, as determined by the Municipality in terms of subsection (b) above shall not be affected by reason of any objection or appeal in terms of the Act, and any applicant who has lodged an objection shall pay rates determined in terms of the disputed market value until the objection has been considered and any adjustment made in favour of or against the property owner has been effected.

- 29.4 Any adjustment or additions made to a valuation roll in terms of sections 51(c), 52 (3) or 69 of the Act, take effect on the effective date of the valuation roll.
- 29.5 If the adjustment in the valuation roll of a property affect the amount due for rates payable on that property, the municipal manager must:
- 29.5.1 calculate the amount actually paid on the property since the effective date; and
- 29.5.2 the amount payable in terms of the adjustment on the property since the effective date; and
- 29.5.3 recover from or repay to the person liable for payment of the rate the difference determined in terms of
- 29.5.1 plus interest
- 29.5.4 Where an addition has been made to a valuation roll as envisaged in section 55(1) of the Act, the municipal manager must recover from the person liable for the payment of the rate the amount due for rates payable plus interest.
- 29.5.6 Any adjustment on appeal shall attract the interest rates as determined in terms of the regulations to the Act.

### **30 RECOVERY OF OVERDUE RATES**

- 30.1 The Municipality shall take appropriate steps against the owner of a property where the rates payable on such property are in arrear and shall have the power to sue for and recover all rates, which are due and payable to the Municipality and to implement an action for arrear rates.
- 30.2 Where the rates payable on a property are overdue, notice stating that such rates are overdue shall be addressed to the owner of the property calling upon the owner to pay such outstanding rates and the penalties accrued or accruing thereon.
- 30.3 Where a property in respect of which the rates are overdue or in arrears, and the property is owned by more than one person, the notice provided for in subsection (b) shall be served in the manner provided for in this policy or any credit control policy or other legislation.
- 30.4 In the event that there is no response from the owner, a further notice shall be served on the owner and on the property in which the Municipality shall indicate that services to the property shall be terminated within a stated period should the outstanding rates and any penalties not be paid, or should a satisfactory

arrangement not be made by the owner with the Municipality for the payment of the outstanding rates and penalties.

30.5 The Municipality may cause to be published in one or more newspaper circulating in the area of jurisdiction of the Municipality, a notice stating that, if the arrear rates in respect of the financial year specified in the notice, together with all interest and collection charges remain unpaid after a date specified in the notice, application shall be made to a court of competent jurisdiction for an order for the sale by public auction of the properties in respect of which such rates and penalties are in arrear and for the payment in respect of which such rates and penalties are in arrears and for the payment out of the proceeds thereof of all arrear rates together with penalties and costs in respect thereof.

30.6 If after, the publication of a notice in terms of subsection 31.4 such rates, interest and collection charges are not paid within the period stated therein, the Municipality may make application to a court competent jurisdiction showing the amount of rates, interest and collection charges then in arrear and that all notices have been given and requesting the court to order any rateable property or so much thereof as may be sufficient to satisfy the amounts outstanding in terms of rates and penalties, to be sold by public auction and the proceeds thereof to be paid in to court, and to direct payment to the Municipality of all amounts due to it accrued in respect of the date of such sale together with the costs of obtaining he said order and all expenses of such sale.

30.7 Any amounts due for Municipal service fees, property rates and other municipal taxes, levies and duties recovered as a result of the sale of a property by public auction in terms of an order granted by a court of competent jurisdiction, are a charge upon the property so sold and enjoy a preference over any mortgage bond registered against such property.

30.8 If before the sale of any rateable property in terms hereof a certificate is produced to the Deputy Sheriff or other person charged with the sale thereof, a by the Municipality certifying that all amounts owing in terms of outstanding and arrear rates and penalty charges have been made, the said property shall be withdrawn from the sale.

30.9 Notwithstanding that all outstanding and arrear rates penalty charges may have been paid before the said sale, the Municipality shall not be liable to any

person for any loss or damage suffered by such person by reason of the sale of any such property in respect of which no such certificate has been produced to the said Deputy Sheriff or other person.

30.10 The municipality reserves the right to refuse the provision of services to an owner or an occupant/ lessee of a property if:

30.10.1. the rates in respect of that property are in arrears; and/or

30.10.2. if owner of the property owner is deceased, and the estate has either not been reported to the master or an Executor has not been appointed in respect of the deceased estate.

### **31 COLLECTION CHARGES**

31. In addition to any rates and interest payable, collection charges shall accrue as follows:

(i) As from the last working day, an amount representing 10 % of the capital amount of the rates then in arrears.

(ii) On the grant of a Court Order in terms of Section any further interest and collection charges provided for in terms of applicable legislation of the capital amount or the rates in arrears.

(iii) The said charges shall be payable to the Municipality and the said amounts or such of them as may be applicable may be recovered by it in any proceedings for the recovery of rates.

(iv) Nothing herein contained shall prevent the Municipality from taking proceedings for the recovery of any rates, penalties or charges by way of action or other competent procedure in any court of competent jurisdiction.

### **32 RECOVERY OF RATES IN ARREARS FROM TENANTS AND OCCUPIERS**

32.1 A Municipality may recover arrear rates from tenants and occupiers in accordance with the provisions of Section 28 of the Act.

32.2 The amount that the Municipality may recover from the tenant or occupier of a property in terms of Subsection (a) shall be limited to the amount of the rent or

other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property.

32.3 If the rates levied in respect of a property are unpaid after the due date specified in terms of section 26 of the Act, the Municipality may recover an amount in whole or in part from a tenant or occupier of the property. The Municipality may recover an amount only after the Municipality has served a written notice on the tenant or occupier.

32.4 Any amount the Municipality recovers from the occupant or tenant of the property shall be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner.

32.5 The tenant or occupier of a property must, on request by the Municipality, or its agent, with a written statement specifying all payments to be made by the tenant

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or occupier to the owner of the property for rent or other money payable on the property during a period determined by the Municipality.

32.6 If the occupier or tenant agrees to pay over to the Municipality any rent and/or other monies due to the owner and not yet paid to the owner, no further action shall be taken against the tenant and the property.

32.7 If the occupant or tenant refuses to co-operate with the Municipality, the services to the property may be disconnected and other management actions implemented in terms of the Municipality's Credit Control Policy and Bylaws.

32.8 The payment by the occupant or tenant in terms hereof shall be recorded on the property file for further reference.

32.9 If the payments by the tenant are not able to redeem the arrears within the following twelve months, the monies shall be attached and the next stage in the Debt Management policy of the Municipality shall be implemented.

### **33 RECOVERY OF RATES FROM AGENTS**

33.1 The Municipality, may notwithstanding any provisions of the Estate Agents Affairs Act, 1978 (Act No. 112 of 1978), recover the amount due for rates on a

property in whole or in part from the agent of the owner in terms of section 29 of the Act.

- 33.2 The Municipality may recover the amount due for rates from the agent of the owner only after it has served a written notice on the Agent.
- 33.3 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.
- 33.4 The Agent shall, on request by the Municipality, furnish the Municipality with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner during a period determined by the Municipality.
- 33.5 The notice served on the property shall inquire whether the occupier is paying rent and other monies to an agent of the owner and shall state that the Municipality may, legally attach the rent payments

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- 33.6 If the Managing Agent is identified through the tenants assistance, a copy of the notice, which was served on the tenant, shall be served on the agent stating that failure to co-operate may lead to action being taken against the Agent and the possible termination of the services to the property in question;
- 33.7 If the payments by the Agent are not able to redeem the arrears within the following twelve months, the monies shall be attached and the next stage in the Debt Management Policy of the Municipality shall be implemented.

#### **34 RESTRAINT ON TRANSFER OF PROPERTY AND RATES CLEARANCE CERTIFICATES**

- 34.1 The municipality shall not issue any certificate in terms of Section 118 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000) unless and until it has received:
- 34.1.1 all arrear rates, interest and other charges;
- 34.1.2 all arrear service charges and utility charges due on the property
- 34.1.3 payment in advance equivalent to four months of the rates payable on the property together with an amount equivalent to four months average consumption of the services supplied to the property.

- 34.2 A prescribed certificate issued by a Municipality in terms of subsection(a) is valid for 120 days from the date it has been issued
- 34.3 In the case of transfer of property by a trustee of an insolvent estate, the provisions of this section are subject to Section 89 of the Insolvency Act, 1936 (Act No. 24 of 1936).
- 34.4 An amount due for municipal services, surcharge on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with the amount owing and enjoys preference over any mortgage bond registered against the property.
- 34.5 Where the average monthly consumption of services to a property have been calculated for a period of more than 60 days, the owner, in consultation with the Municipality, shall make arrangements for the reading of the meter in respect of the relevant services in order to comply with provision of Section 118 of the Systems Act.

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- 34.6 Where a conveyancer is able to demonstrate that exceptional circumstances exist, the Chief Financial Officer may accept a letter of undertaking, or a guarantee to the satisfaction of the Municipality for the payment of the amounts against registration of transfer.
- 34.7 In terms of the Prescription Act of 1969 the writing off of any uncollectable debt in the case of property rates only expires after 30 years.

### **35 CONSOLIDATION OF ACCOUNTS**

Separate accounts of persons liable for payment to the municipality for either rates or services may be consolidated in one account and any appropriation of payments will be done in accordance with the municipality's credit control policy.

### **36 RECOVERY OF RATES**

- 36.1 The municipality may provide for additional conditions relating to the payment and recovery of rates in its Credit Control and Debt Collection policies and Bylaws, including the charging of interest, collection charges and administrative charges.
- 36.2 The municipality may provide for the termination of services for non payment of rates in its Rates By-laws, Credit Control and Debt Collection policies.

### **37. COMMUNITY PARTICIPATION**

It is recorded that every Municipality may only adopt its rates policy or any amendment thereof or any review of its policy after following a process of community participation in accordance with Chapter 4 of the Municipal Systems Act, 2000.

37.1 The Municipality will comply with its community participation and consultation obligations in terms of Chapter 4 of the Municipal Systems Act and Sections 4 and 5 of the Act before the Rates Policy or any review thereof is finally adopted. In terms of Chapter 4 of the Municipal Systems Act, 2000 (Act No. 320 of 2000) the Municipality is committed to:

37.1.1 Building capacity of the local community to enable it to participate in the affairs of the Municipality; and

37.1.2 The fostering community participation for which the Municipality will allocate funds in its budget for such processes.

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37.2 The participation by the local community in municipal affairs will take place through the political structures, the mechanism, processes and procedures for participation in municipal governance and any other appropriate mechanisms processes and procedures established by the Municipality and generally to apply the provisions for participation as required by this act.

37.3 The Municipality will provide for:

37.3.1 The receipt processing and consideration of petitions, objections and comments lodged by the members of the local community.

37.3.2. Public meetings and hearings by the Municipal Council and other political structures (e.g ward committees) and political office bearers of the municipality.

37.3.3 Consultative sessions with locally recognized community organizations and where appropriate with traditional authorities.

37.4 Communication with the public relating to the rates Policy will be in terms of Section 4 (2) of the act by notice :

37.4.1 In Local newspapers circulating in its area and determined by this Council as newspaper of record; and /or

37.4.1 On Official notice boards and other public places accessible to the public including the library and the municipal offices;

37.4.1 On Municipal website (if applicable)



And inviting the local community to submit comments and representations within the time specified in the notice.

**38 TRANSITIONAL ARRANGEMENTS RELATING TO REDETERMINATION OF  
MUNICIPAL BOUNDARIES : USE OF VALUATION ROLLS &  
SUPPLEMENTARY  
VALUATION ROLLS**

In terms of Section 89 A of the Act, the redetermination of municipal boundary (in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998) an area is included into the existing area of jurisdiction of a municipality may:-

- (a) Continue to use a valuation roll and supplementary valuation roll that was in force in the area that has been included in its area of jurisdiction; and
- (b) levy rates against property values as shown on that valuation roll or supplementary valuation roll, until it prepares a valuation roll or supplementary valuation roll that includes such area.

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If a municipality uses valuation rolls and supplementary valuation rolls in terms of subsection (1) that municipality may, notwithstanding Section 19 (1)(a), impose different rates based on the different valuation rolls or supplementary valuation rolls, so that the amount in the Rand on the market value of the property payable on similarly situated property is more or less the same.

**39 TRANSITIONAL ARRANGEMENTS RELATING TO REDETERMINATION OF  
MUNICIPAL BOUNDARIES: EXISTING RATES POLICIES**

If, as a result of the redetermination of a municipal boundary in terms of the Local Government: Municipal Demarcation Act, 1998 ( Act no 27 of 1998), an area is included into the existing area of jurisdiction of a municipality during the course of a financial year, that municipality may during the financial year in which the inclusion becomes effective and subsequent financial years, until it prepares a valuation roll or a supplementary valuation roll that includes such area

- (a) continue to use the rating policy and by-laws that were in force in the area that has been included in it area of jurisdiction; and
- (b) levy rates consistent with that rating policy and by-laws

#### **40 TRANSITIONAL ARRANGEMENT - PUBLIC SERVICE INFRASTRUCTURE**

The prohibition on the levying of rates on public service infrastructure referred to in section 17 (1)(aA) must be phased in over a period of municipal financial years, with effect from the date of commencement of this transitional arrangement (18 August 2014)

The rates levied on property referred to in subsection (1) must

- (a) in the first year, be no more than 80 per cent of the rate for that year otherwise applicable to the property;
- (b) in the second year be no more than 60 per cent of the rate for that year otherwise applicable to the property;
- (c) in the third year, be no more than 40 per cent of the rate for that year otherwise applicable to that property;
- (d) in the fourth year be no more than 20 per cent of the rate for that year otherwise applicable to that property; and
- (e) in the fifth year, be no more than 10 per cent of the rate for that year otherwise applicable to that property

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#### **41 TRANSITIONAL ARRANGEMENT - DIFFERENTIAL RATES**

The provisions of section 8 in terms of the MPRA - Differential Rates must be applied by a municipality within seven (7) years of the date of the commencement of this ACT.











