



MTHONJANENI LOCAL MUNICIPALITY

RATES POLICY

Revised and approved by the Mthonjaneni Municipal Council
On 28th May 2020

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PREAMBLE

WHEREAS:

The Council of the **Mthonjaneni** Municipality has resolved to levy rates on the market value of all rateable properties in its area jurisdiction as reflected in its property register compiled in terms of section 23 of the Act in order to provide a reliable source of revenue to provide basic services and perform its functions.

The Municipality must in accordance with the provision of section 3 of the Act adopt a rates policy consistent with the Municipal Property Rates Act, 2004 (Act No. 6 of 2004) on the levying of rates in the municipality.

Revenue raised from property rates will be used to fund services that benefit the community as a whole.

DEFINITIONS

The definitions listed within the rates policy refer specifically to the definitions of categories of property and categories of owner. The discretionary rates relief extended by the council is reviewed annually. The actual monetary amounts are included within the tariffs as determined annually by Council.

The rates policy is reliant on the Municipal Property Rates Act 6 of 2004 (MPRA) for all further definitions and provisions pertaining to the MPRA.

“agricultural property” means property that is used primarily for agricultural purposes but, without derogating from section 9, 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;

“Business or Commercial” means-

- 1) 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;
- 2) Property on which the administration of the business of private or public entities takes place;
- 3) property used for the provision of commercial accommodation;

- 4) property used for education purposes;
- 5) Property used by the State or any organ of State; or
- 6) Property excluded from any other category of property.
- 7) Office blocks, retail shops, shopping centres, showrooms, petrol filling stations & private hospitals and clinics.

“category”—

- (a) in relation to property, means a category of properties determined in terms of section 8 of the Act; and
- (b) in relation to owners of properties, means a category of owners determined in terms of section 15 (2) of the Act;

“child headed household” means any child under the age of 21 years who is or is a blood relative of the owner of

the property and which child is responsible for the care of siblings or parents;

“date of valuation” means the date determined by a municipality in terms of section 31, in this case the date of valuation for the general valuation roll is 1st July 2019.

“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;

“effective date”—

- (a) in relation to a valuation roll, means the date on which the valuation roll takes effect in terms of section 32 (1); or
- (b) in relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of section 78 (2) (b) of the Act;

“exemption”, in relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15 of the Act;

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

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

“Income Tax Act” means the Income Tax Act, 1962 (Act No. 58 of 1962);

“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 : 1) The production of raw products on the property; 2) The storage and warehousing of raw or finished products; and 3) Any office or other accommodation on the same property the use of

which is incidental to such activity. 4) Dedicated Workshops used in the repair of vehicles, equipment and plant, tyre fitment and recycling of materials.

“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 a land tenure right as defined in section 1 of the Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991);“;

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;
any civic organizations and non-governmental, private sector or labour organizations or bodies which are involved in local affairs within the municipality;
and
 - (iii) 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;

“multiple purposes”, in relation to a property, means the a property used for more than one purpose. The market value of the property must be apportioned to the different purposes and the applicable rates for these respective categories applied to the different market value apportionments.

mining property” means a property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

“municipal valuer” or “valuer of a municipality means a person designated as a municipal valuer in terms of section 33 (1) of the Act;

“non-profit organizations” means a non-profit organizations registered in terms of the Non-profit Organizations Act, 71 of 1997

“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 that 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 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;

“owner”—

- (a) in relation to a property referred to in paragraph (a) of the definition of —propertyll, 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 —propertyll, 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 —propertyll, 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 —propertyll, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of —publicly controlledll, provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:

- (i) A trustee, in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
- (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;
- (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;

“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; How long do I qualify for the relief, annual.

“Owners of hospitality facilities” means a property used for the purposes of hospitality within both urban and rural locations within the municipality. Consideration will be made annually for a discretionary reduction to be extended to owners who operate such facilities and who are current members of the Mthonjaneni Tourism Association;

“Pensioner” means

- (a) a person in receipt of a social pension; and
 - (b) a person over the age of 60 years; or
- a person who has retired prematurely from employment due to medical reasons.

“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;

place of public worship” means property used primarily for the purposes of congregation, 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.

“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;

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

“Protected Areas Act” means the National Environmental Management: Protected Areas Act, 2003;

“public benefit organization property” means any property owned by a public benefit organization and used for any specified public benefit activity listed in part 1 of the ninth Schedule to the Income Tax Act excluding Item 3 and 5 being land and housing, places of worship already where rebates, reductions and exemptions have already been considered under impermissible rates. Ratios published by the minister for items 1, 2 and 4 of the schedule must not exceed those published by the minister from time to time.

“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;
- (c) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) runways 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;
- (g) 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;
- (h) any other publicly controlled infrastructure as may be prescribed; or
- (i) 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 and 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;

“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;

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

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

“residential property” means a property included in a valuation roll in terms of section 48(2)(b) as residential in respect of its primary use without derogating from section 9; “.

“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;

“this Act” includes regulations made in terms of section 83 of the Act.

- (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.

Must live in the house, councillor to sign affidavit saying that he is resident

“The Municipality” means the **Mthonjaneni Municipality**;

“vacant land” means any undeveloped land as listed in the valuation roll and includes bulk land identified by the municipality and where there is an approved Surveyor General Plan,

Township Layout or approved general diagram, may be separately valued and rated, notwithstanding the non-registration of any sub-divisions

“unauthorised use property”– means any property or part thereof used in conflict with the permitted use of such property as provided for in any applicable Town Planning Scheme or other relevant legislation and any property or part thereof developed or improved contrary to the provisions of National Building Regulations and Building Standards Act 103 of 1977, the Planning and Development Act (Kwazulu Natal) 6 of 2008 or any other relevant legislation;

1. IMPLEMENTATION OF THIS POLICY AND EFFECTIVE DATE

- 1.1. This policy takes effect from the effective date of the general valuation roll prepared by the municipality in terms of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004) and must accompany the municipality’s budget for the financial year.
- 1.2. The Rates Policy must be reviewed annually, and if necessary amended by the Municipal Council, 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.
- 1.3 The Municipality has adopted by-laws to give effect to the implementation of its Rates policy and such by-laws must be read in conjunction with this policy. The rates by-laws may differentiate between:
 - 1.3.1 categories of properties; and
 - 1.3.2 categories of owners of properties.
- 1.4 The by-laws adopted in terms of Item 1.3 may be reviewed annually, and if necessary be amended by the Municipal Council, in conjunction and in accordance with the Rates Policy.

2. FUNDAMENTAL PRINCIPLES OF THIS POLICY

The principles of the policy are to ensure that:

Relief to be acquired for a single category of relief.

Annual application with supporting docs

- 2.1 the power of the municipality to impose rates on property will not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities or the national mobility of goods services, capital or labour in terms of Section 229 of the Constitution of the Republic of South Africa;
- 2.2 all ratepayers, in a specific category, as determined by council from time to time, will be treated equitably;
- 2.4 property rates will not be used to subsidize trading and economic services;
- 2.5 the rates income generated by the municipality will take into account rates relief measures to protect the vulnerable property owners within the community;
- 2.6 this Policy was developed in consultation with the community and in compliance with a process of community participation in terms of Chapter 4 of the Municipal Systems Act.

3. THE PURPOSE OF THIS POLICY IS TO:

Determine or provide criteria for the determination of categories of properties and categories of owners of properties; and to determine the criteria to be applied for granting exemptions, rebates and reductions

4. EQUITABLE TREATMENT OF RATEPAYERS

This municipality is committed to treating all ratepayers on an equitable basis. The Municipality may adopt measures to ensure equitable and fair treatment of ratepayers.

Any differentiation in levying rates must not constitute unfair discrimination.

5. DISCRETIONARY DECISIONS ADOPTED BY THE MUNICIPALITY WITH RESPECT TO LEVYING OF PROPERTY RATES

It is recorded that the Municipality has adopted the following resolutions:

- 5.1 To levy rates on all rateable property in its area of jurisdiction
- 5.2 To determine the date of implementations 1st July 2020
- 5.3 To determine the date of general valuations as 1st July 2019
- 5.4 To levy different cents in the rand for different categories of rateable property
- 5.5 That the categories of properties for the purpose of differential rating referred to in 5.4 above as those specified in Appendix 1 attached hereto.
- 5.6 Rounding provisions: It is recorded that for the purposes of municipal rating the determination of market value will be rounded to the nearest R10,000 in value.
- 5.7 Minimum threshold for the levying of property rates: The Council will from time to time review the minimum value threshold for the levying of property rates.

6. CATEGORIES OF RATEABLE PROPERTY AND DIFFERENTIAL RATING

The categories of properties for this municipality are those specified in Appendix 1.

Differential rating as defined in section 8(1) enables the municipality to levy different rates for different categories of rateable properties. The municipality has resolved to levy differential rates for different categories of rateable property properties as reflected in Appendix 1 and the

rates applicable to the different categories of properties are as resolved by the council or by the Minister.

7. RELIEF MEASURES FOR RATEPAYERS

7.1 The municipality has considered:

7.1.1 the need to grant relief to certain categories of ratepayers with a view to providing for appropriate measures to alleviate the impact of the rates burden on them.

7.2 The municipality will not grant relief in respect of the payment of rates other than by way of an exemption, a rebate or a reduction provided for in its rates policy and granted in terms of section 15 of the Act to:

a category of properties, or

a category of owners of properties as provided hereunder.

7.3 The municipality will not grant relief to the owners of properties on an individual basis.

8. CATEGORIES OF OWNERS ENTITLED TO RELIEF

8.1 This municipality has identified the categories of owners below for purposes of granting rates relief:

8.1.1 indigent owners;

8.1.2 pensioners;

8.1.3 owners temporarily without an income;

8.1.4 owners of property situated within an area affected by:

8.1.4.1 a disaster within the meaning of the Disaster Management Act 57 of 2002;

8.1.5 owners of residential properties with a market value below a monetary amount as determined by Council from time to time.

Owners of residential properties are also in receipt of the impermissible allowance of R15,000 on the market value of the properties in accordance with section 17(1)(h).

8.1.6 public benefit organizations who conduct the following specified public benefit activities:

8.1.6.1 welfare and humanitarian; or

8.1.6.2 health care; or

8.1.6.3 education; and

8.1.6.4 are registered in terms of the Income Tax Act for tax reductions because of the activities referred to in (8.1.6);

8.1.7 non-profit organizations registered in terms of the Non-profit Organizations Act, 71 of 1997, whose activities are that of a public and charitable nature as may be specified by the municipality from time to time;

8.1.8 minor children who are the head of a household as defined in child headed household;

8.1.9 disabled persons.

9. IMPERMISSIBLE RATES

Section 17 MPRA outlines certain categories of property which are subject to impermissible rates. These includes amongst others:

1. Places of public worship including the official residence registered in the name of the religious community;
2. Certain classes of public service infrastructure (a); (b) (e); (g) ad (h)
3. Protected areas as defined in the National Environmental Management Protected Areas Act, 2003;
4. The first R15,000 of the market value of all residential properties;
5. Property belonging to a land reform beneficiary for 10 years from the date of registration of the property.

10.CONSTITUTIONALLY IMPERMISSIBLE RATES

10.1 The Act provides that in terms of Section 229(2)(a) of the Constitution a Municipality may not exercise its power to levy rates on property in a way that would materially and unreasonably prejudice -

10.1.1 national economic policies;

10.1.2 economic activities across its boundaries; or

10.1.3 the national mobility of goods, services, capital or labour.

11.EXEMPTIONS

An exemption is a release from liability for the payment of rates.

11.1 The Municipality has exempted in total, from payment of rates the following categories of properties:

Properties owned by public benefit organizations which are used for any specific public benefit activities listed in Part 1 of the 9th Schedule to the Income Tax Act;

11.2 All applications for exemption shall be granted on an annual basis.

11.3 In order to qualify for exemption all applicants shall comply with the following requirements:

11.3.1 written applications for exemption for a financial year must be lodged in the prescribed format with the Municipal Manager on or before 30 June in the year prior to the financial year for which application is being made;

11.3.2 in the case of public benefit organizations upon proof of:

11.3.2.1 registration in terms of the requirements of the Income Tax Act;

11.3.2.2 an affidavit signed by the head of the public benefit organization or non-profit organization before a Commissioner of Oaths that the property is used primarily for the specified public benefit activities and purposes of the said public benefit organization;

11.4. In the case of properties owned by non-profit organizations upon proof of submission of:

11.4.1 an affidavit signed by the head 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;

11.4.2 Proof that no private pecuniary profit is made from the property;

11.4.3 that no rent is received by the applicant for any use of the property by other persons.

11.5 The Municipality reserves the right to specify such other requirements as the municipal manager deems necessary to specify from time to time.

12. REDUCTIONS

A reduction is the lowering of the market value of the property upon which rates will be levied.

12.1 The municipality will annually determine a monetary reduction for all residential properties and for properties used for multiple purposes provided there are residential portions one or more components of the property are used for residential purposes.

13. REBATES

A rebate is a discount granted on the amount of rates payable by the ratepayer.

REBATES FOR CATEGORIES OF OWNERS OF PROPERTIES

13.3 The municipality has resolved to grant the rebates as may be determined annually to the following categories of owners of properties. In the case of residential properties this relief is in addition to the reduction applied the residential category of property.

Category of Owner	Percentage Rebate
Pensioner	At a percentage discount to be determined annually by Council.
Disabled persons	At a percentage discount to be determined annually by Council.
Indigent persons	At a percentage discount to be determined annually by Council.
Owners of property in an area affected by a disaster	At a percentage discount to be determined annually by Council.
Child headed household	At a percentage discount to be determined annually by Council.

13.3 In order to qualify for the rebates a pensioner, a disabled person, an indigent and / or persons temporarily without income must:

- 13.3.1 be the sole owner of the property or owned jointly with his/her spouse;
- 13.3.2 be living permanently on the property;
- 13.3.3 not own any other property;
- 13.3.4 have an aggregate household income which is determined by the Council from time to time;
- 13.3.5 provide proof of identity in the form of an identity document; and
- 13.3.6 substantiate items 11.3.2 to 11.3.4 above by way of a sworn affidavit before a Commissioner of Oaths;
- 13.3.7 provide proof of income on a sworn declaration and supported by documentation;
- 13.3.8 medical certificate as required by the municipality if the application relies on a medical basis for the rebate;
- 13.3.9 any other supporting documents specified by the municipality from time to time.

14.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.

14.1 This 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. 32 of 2000) the Municipality is committed to:

- 14.1.1 building capacity of the local community to enable it to participate in the affairs of the Municipality; and
 - 14.1.2 to foster community participation for which the municipality will allocate funds in its budget for such processes.
- 14.2 The Participation by the local community in municipal affairs will take place through the political structures; the mechanisms, processes and procedures for participation in municipal governance and any other appropriate mechanism processes and procedures established by the municipality and generally to apply the provisions for participation as required by this act.
- 14.3 The municipality will provide for:
- 14.3.1 the receipt, processing and consideration of petitions, objections and comments lodged by the members of the local community;
 - 14.3.2 public meetings and hearings by the municipal council and other political structures (e.g. ward committees) and political office bearers of the municipality;
 - 14.3.3 consultative sessions with locally recognized community organizations and where appropriate traditional authorities;
- 14.4 Communication with the public relating to the Rates Policy will be in terms of section 4(2) of the Act by notice in:
- 14.4.1 local newspapers circulating in its area and determined by this council as a newspaper of record; and/or
 - 14.4.2 official notice boards and other public places accessible to the public including the library and the municipal offices;
 - 14.4.3 on the municipal website;

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

15.CATEGORIES OF PROPERTY APPENDIX

Prescribed categories of property
Residential
Industrial
Commercial
Agriculture
Mining
Public Service Purposes
Public Service Infrastructure
Public Benefit Organisation
Multiple Purpose
Recommended Additional Categories
Places of Public Worship
Vacant Land
Municipal Property
Unauthorised Use
National Monument Properties
Protected Areas