

# **EMAKHAZENI LOCAL MUNICIPALITY**



## **DRAFT PROPERTY RATES BY-LAW (FEBRUARY 2009)**



## **EMAKHAZENI LOCAL MUNICIPALITY**

### **PROPERTY RATES BY-LAW**

The Municipal Manager of Emakhazeni Local Municipality hereby, in terms of Section 6 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004), publishes the Property Rates By-law for the Emakhazeni Local Municipality, as approved by its Council as set out hereunder.

#### **PURPOSE OF BY-LAW**

To allow Council to exercise its power to value and impose rates on immovable properties located within its area of jurisdiction in such a manner that it will contribute to effective and economic service delivery to the entire community.

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## 20. SHORT TITLE

## 21. COMMENCEMENT

### 1. Definitions

For the purpose of these by-laws any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) shall bear the same meaning in these by-laws and unless the context indicates otherwise-

- 1.1 **"Act"** means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);
- 1.2 **"Municipality"** means the Emakhazeni Local Municipality;
- 1.3 **"Privately owned towns serviced by the owner"** means single properties, situated in an area not ordinarily being serviced by the municipality, divided through sub division or township establishment into (ten or more) full title stands and/ or sectional units and where all services inclusive of water, electricity, sewerage and refuse removal and roads development are installed at the full cost of the developer and maintained and rendered by the residents of such estate.
- 1.4 **"Residential property"** means improved property that:
- (a) is used predominantly (60% or more) for residential purposes including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes.
  - (b) is a unit registered in terms of the Sectional Title Act and used predominantly for residential purposes.
  - (c) Is owned by a share-block company and used solely for residential purposes.
  - (d) Is a residence used for residential purposes situated on property used for or related to educational purposes.

And specifically exclude vacant land irrespective of its zoning or intended use.

- 1.5 In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa.

### 2. Principles



- 2.1 Rates will be levied in accordance with the Act as an amount in the rand based on the market value of all rateable property contained in the municipality's valuation roll and supplementary valuation roll.
- 2.2 The municipality will differentiate between various categories of property and categories of owners of property as contemplated in clause 5 and 6 of this by-law.
- 2.3 Some categories of property and categories of owners will be granted relief from rates.
- 2.4 The municipality will not grant relief in respect of payments for rates to any category of owners or properties, or to owners of properties on an individual basis.
- 2.5 There will be no phasing in of rates based on the new valuation roll, except as prescribed by legislation and in accordance with clause 14 of this by-law.
- 2.6 The municipality's rates policy will be based on the following principles:
- (a) Equity  
The municipality will treat all ratepayers with similar properties the same.
- (b) Affordability  
The ability of a person to pay rates will be taken into account by the municipality. In dealing with the poor/indigent ratepayers the municipality will provide relief measures through exemptions, reductions or rebates.
- (c) Sustainability  
Rating of property will be implemented in a way that:
- i. it supports sustainable local government by providing a stable and buoyant revenue source within the discretionary control of the municipality; and
  - ii. Supports local social economic development.
- (d) Cost efficiency  
Rates will be based on the value of all rateable property and will be used to fund community and subsidised services after taking into account surpluses generated on trading (water, electricity) and economic (refuse removal, sewerage removal) services and the amounts required to finance exemptions, rebates, reductions and phasing-in of rates as approved by the municipality from time to time.

### **3. Application of By-law**

- 3.1.1 Where this by-law contradicts national legislation, such legislation has preference over this by-law. The Municipal Manager shall bring such conflicts immediately to the attention of the municipality once he becomes aware of such conflicts and will propose changes to the municipality's by-laws to eliminate such conflicts.
- 3.1.2 If there is any conflict between this by-law and the Property Rates policy of the municipality, this by-law will prevail.
- 3.3 In imposing the rate in the rand for each annual operating budget component, the municipality shall grant exemptions, rebates and reductions to the categories of properties and categories of owners.

#### **4. Principles applicable to financing services**

4.1 The municipal manager or his/her nominee must, subject to the guidelines provided by the National Treasury and Executive Committee of the municipality, make provision for the following classification of services:-

- (a) Trading services
  - i. Water
  - ii. Electricity
- (b) Economic services
  - i. Refuse removal.
  - ii. Sewerage disposal.
- (c) Community and subsidised services

These include all those services ordinarily being rendered by the municipality excluding those mentioned in 4.1 (a) and (b).

4.2 Trading and economic services as referred to in clauses (a) and (b) must be ring fenced and financed from service charges while community and subsidised services referred to in clause (c) will be financed from surpluses on trading and economic services, regulatory fees, rates and rates related income.

#### **5. Categories of property**

5.1 Different rates may be levied in respect of the categories of rateable properties as determined by the municipality's rates policy.



5.2 Such rates will be determined on an annual basis during the compilation of the municipality's budget.

5.3 In determining the category of a property referred to in 5.1 the municipality shall take into consideration the following criteria or a combination thereof:-

- The use of the property;
- Permitted use of the property; and
- The geographical area in which the property is situated.

5.4 In order to create certainty and to ensure consistency the criteria mentioned in 5.3 shall be applied as indicated below in order of priority and no deviation is permissible:

5.4.1 Properties shall first of all be categorised in accordance with their formal zoning. Town planning schemes, town establishment schemes and town planning regulations may be used to determine the formal zoning.

5.4.2 If, for whatever reason, the status or zoning of a property cannot be determined in terms of

5.4.1 the actual use

shall then be determined in order to appropriately categorise such property. All relevant information, including circumstantial evidence, may be taken into consideration in an attempt to determine for what purpose the property is being used. A physical inspection may be done to acquire the necessary information.



5.4.3 The geographical area in which a property is situated may be used to assist in the categorisation of a property when the provisions of 5.4.1 can not be applied. However, the geographical area as a criterion should not be used in isolation.

5.5 Properties used for multiple purposes shall be categorised and rated as provided for in section 9 of the Act and as more fully described in clause 7.

## **6. Categories of owners**

6.1 For the purpose of granting exemptions, reductions and rebates in terms of clause 9, 10 and 11 respectively the following categories of owners of properties are determined:

- (a) Those owners who qualify and who are registered as indigents in terms of the adopted indigent policy of the municipality;

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

## **7. Properties used for multiple purposes**

7.1 Rates on properties used for multiple purposes will be levied as follows:

- (a) In accordance with the "permitted use of the property".
- (b) In accordance with the "dominant use of the property" if (a) cannot be applied; or
- (c) In accordance with the "different uses" by apportioning the market value of a category of property to the different purposes for which the property is used if both (a) and (b) above cannot be applied.

## **8. Differential rating**

8.1 Criteria for differential rating on different categories of properties will be according to-

- (a) The nature of the property including its sensitivity to rating e.g. agricultural properties used for agricultural purposes.
- (b) The promotion of social and economic development of the municipality.



8.2.1 Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category; and

8.3 by way of reductions and rebates as provided for in the municipality's rates policy document.

## **9. Exemptions**

9.1 Categories of property as determined by the municipality's rates policy on an annual basis will be exempted from paying rates.

9.2 Conditions determined by the rates policy will be applied accordingly.

9.3 Exemptions will automatically apply where no applications are required.

## **10. Reductions**

10.1 Reductions as contemplated in section 15 of the Act will be considered on an *ad-hoc* basis in the event of the following:

10.1.1 Partial or total destruction of a property.

10.1.2 Disasters as defined in the Disaster Management Act, 2002 (Act 57 of 2002).

10.2 The following conditions shall be applicable in respect of 10.1:-

10.2.1 The owner referred to in 10.1.1 shall apply in writing for a reduction and the onus will rest on such applicant to prove to the satisfaction of the municipality that his property has been totally or partially destroyed. He/she will also have to indicate to what extent the property can still be used and the impact on the value of the property.

10.2.2 Property owners will only qualify for a rebate if affected by a disaster as referred to in the Disaster Management Act, 2002 (Act No. 57 of 2002).

10.2.3 A maximum reduction determined by the municipality will be allowed in respect of both 10.1.1 and 10.1.2.

10.2.4 An ad-hoc reduction will not be given for a period in excess of 6 months, unless the municipality gives further extension on application.

10.2.5 If rates were paid in advance prior to granting of a reduction the municipality will give credit to such an owner as from the date of reduction until the date of lapse of the reduction or the end of the period for which payment was made whichever occurs first.

## **11. Rebates**

11.1. Categories of property

11.1.1 The municipality may grant rebates to categories of property as determined in the municipality's rates policy.



## 11.2 Categories of owners

- 11.2.1 The municipality may grant rebates to categories of owners as determined annually in the municipality's rates policy.
- 11.3 Applications for rebates must reach the municipality before the date determined by the property policy, preceding the start of the new municipal financial year for which relief is sought.
- 11.4 The municipality retains the right to refuse rebates if the details supplied in the application form were incomplete, incorrect or false.
- 11.5 Properties with a market value below a prescribed valuation level of an amount determined annually by the municipality may, instead of a rate being determined on the market value, be rated a uniform fixed amount per property.
- 11.6 The extent of the rebate in terms of 11.1, 11.2 and 11.5 shall annually be determined by the municipality and it shall be included in the annual budget.

## 12. Payment of rates

### 12.1 Council may levy assessment rates: -

- (a) On a monthly basis or less regular as determined by the Municipal Finance Management Act,(No.56 of 2003) or
- (b) Annually, as agreed with the owner of the property.

### 12.2 Assessment rates is payable:-

- (a) Annually in a once of amount determined by the municipality; or
- (b) in instalments payable on or before a date in each period as determined by the municipality.

12.3 Interest on arrears rates, whether payable on or before 30 September or in equal monthly instalments, shall be calculated in accordance with the provisions of the credit control, debt collection and indigent policy of the municipality.

12.4 If a property owner who is responsible for the payment of property rates in terms of the rates policy, fails to pay such rates in the prescribed manner, it will be recovered from him/her in

accordance with the provisions of the Credit Control, Debt Collection and indigent policy of the Municipality.



- 12.5 Arrears rates shall be recovered from tenants, occupiers and agents of the owner, in terms of section 28 and 29 of the Act as follows:
- 12.5.1 If an amount, due for rates levied on a property, is not paid by the owner by the due date as shown on the account and no reaction is forthcoming from the owner after two written reminders have been issued, the municipality shall recover the amount in full or partially as follows:
- 12.5.2 From the agent who is lawfully responsible to collect commission or rental in respect of the property concerned;
- 12.5.3 From a tenant or occupier of the property, only after an attempt was made to collect it from an agent refer to in 12.5.2 but such attempt was unsuccessful or no such agent exists or only a part of the outstanding amount could successfully be recovered.
- 12.5.4 The amount recoverable is limited to the amount as stipulated in the Act and it may only be recovered after written notice has been served on the party concerned (tenant, occupier or agent) of the rates due and payable, but not yet paid by owner of the property.
- 12.5.5 The notice referred to in 12.5.4 shall give the party concerned at least 14 calendar days to pay the outstanding rates.
- 12.6 Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.
- 12.7 In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

### **13. Accounts to be furnished**

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

- (i) the amount due for rates payable,
- (ii) the date on or before which the amount is payable,
- (iii) how the amount was calculated,
- (iv) the market value of the property, and
- (v) rebates, exemptions, reductions or phasing-in, if applicable.

13.2 A person liable for payment of rates remains liable for such payment, whether or not such person has received a written account from the municipality. If the person concerned has not received a written account, he/she must make the necessary enquiries with the municipality.



13.3 In the case of joint ownership the municipality shall consistently, in order to minimise costs and unnecessary administration, recover rates from one of the joint owners only provided that it takes place with the consent of the owners concerned.

#### **14. Phasing in of rates**

14.1 The rates to be levied on newly rateable property shall be phased in as explicitly provided for in section 21 of the Act.

14.2 The phasing-in discount on the properties referred to in section 21 shall be as follows:

- First year : 75% of the relevant rate;
- Second year : 50% of the relevant rate; and
- Third year : 25% of the relevant rate.

14.3 No rates shall be levied on newly rateable properties that are owned and used by organisations conducting activities that are beneficial to the public and that are registered in terms of the Income Tax Act for those activities, during the first year. Thereafter, the phasing-in discount on these properties shall be as indicated in paragraph 14.2 above

#### **15. Special rating areas**

15.1.1 The municipality will, whenever deemed necessary, by means of a formal Council resolution determine special rating areas in consultation with the relevant communities as provided for in section 22 of the Act.

15.2 The following matters shall be attended to in consultation with the committee referred to in clause 15.3 whenever special rating is being considered:

15.2.1 Proposed boundaries of the special rating area;

15.2.2 Statistical data of the area concerned giving a comprehensive picture of the number of erven with its zoning, services being rendered and detail of services such as capacity, number of vacant erven and services that are not rendered;

15.2.3 Proposed improvements clearly indicating the estimated costs of each individual improvement;

15.2.4 Proposed financing of the improvements or projects;

15.2.5 Priority of projects if more than one;

15.2.6 Social economic factors of the relevant community;

15.2.7 Different categories of property;

15.2.8 The amount of the proposed special rating;

15.2.9 Details regarding the implementation of the special rating;

15.2.10 The additional income that will be generated by means of this special rating.



15.3 A committee consisting of 6 members of the community of whom 3 shall be women will be established to advise and consult the municipality in regard to the proposed special rating referred to above. This committee will be elected by the inhabitants of the area concerned who are 18 years of age or older. No person under the age of 18 may be elected to serve on the committee. The election of the committee will happen under the guidance of the Municipal Manager. The committee will serve in an advisory capacity only and will have no decisive powers.

15.4 The required consent of the relevant community shall be obtained in writing or by means of a formal voting process under the chairmanship of the Municipal Manager. A majority shall be regarded as 50% plus one of the households affected. Each relevant household, i.e. every receiver of a monthly municipal account, will have 1 vote only.

15.5 In determining the special additional rates the municipality shall differentiate between different categories as referred to in clause 5.

15.6 The additional rates levied shall be utilised for the purpose of improving or upgrading of the specific area only and not for any other purposes whatsoever.

15.7 The municipality shall establish separate accounting and other record-keeping systems, compliant with GAMAP/GRAP, for the identified area and the households concerned shall be kept informed of progress with projects and financial implications on an annual basis.

## **16. Frequency of valuation**

16.1 The municipality shall prepare a new valuation roll every 4 (four) years, with the option to extend the validity of the valuation roll to 5 (five) years with the approval of the MEC for Local Government and Housing in the province.

16.2 Supplementary valuations will be done on a continual basis to ensure that the valuation roll is properly maintained.

## **17. Community participation**

17.1 Before the municipality adopts the rates by-law, the municipal manager will follow the process of community participation envisaged in chapter 4 of the Municipal Systems Act and comply with the following requirements:

17.1.1 Conspicuously display the draft rates by-law for a period of at least 30 days (municipality to include period decided on) at the municipality's head and satellite offices and libraries (and on the website)

17.1.2 Advertise in the media a notice stating that the draft rates by-law has been prepared for submission to council and that such by-law is available at the various municipal offices and on the website for public inspection. Property owners and interest persons may obtain a copy of the draft by-law from the municipal offices during office hours at a cost as determined annually by the municipality. Property owners and interest persons may submit written comments or representations to the municipality within the specified period in the notice.

17.1.3 Council will consider all comments and/or representations received when considering the finalisation of the rates by-law.

## **18 Register of properties**

18.1 The municipality will compile and maintain a register in respect of all properties situated within the jurisdiction of the municipality. The register will be divided into Part A and Part B.

18.2 Part A of the register will consist of the current valuation roll of the municipality and will include all supplementary valuations done from time to time.

18.3 Part B of the register will specify which properties on the valuation roll or any supplementary valuation roll are subject to:

- i. Exemption from rates in terms of section 15 of the Property Rates Act, 2004,
- ii. Rebate or reduction in terms of section 15 ,
- iii. Phasing-in of rates in terms of section 21, and
- iv. Exclusions as referred to in section 17.

18.4 The register will be open for inspection by the public at the municipal main offices during office hours or on the website of the municipality.

18.5 The municipality will update Part A of the register every 6 months during the supplementary valuation process.

18.6 Part B of the register will be updated on a continuous basis.

## **19 Regular review processes**

19.1 The municipality's rates policy must be reviewed on an annual basis to ensure that it complies with the Municipality's strategic objectives as contained in the Integrated Development Plan and with legislation.

## **20. Short title**

This by-law is the rates by-law of the Emakhazeni Local Municipality.

## **21. Commencement**

This by-law comes into force and effect on .....