

THABAZIMBI LOCAL MUNICIPALITY



PROPERTY RATES POLICY 2011/12

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1. INTRODUCTION

Section 3(1) of the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004) ("MPRA"), and section 62(1) (f) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) ("MFMA"), provide that a municipality must adopt and implement a consistent policy on the levying of rates on rateable property.

This document sets out the policy of the Thabazimbi Municipality on the levying of rates on rateable property. In applying its rates policy, the Municipality will meet all the requirements of the MPRA and MFMA, including any regulations made under these Acts.

The Municipality will, as part of each annual operating budget process, impose a rate in the rand on the market value of all rateable properties as recorded in the Municipality's valuation roll or supplementary valuation roll(s). Rateable property includes any rights registered against the property, with the exception of a mortgage bond. Generally, all land within a municipal area is rateable unless it is specifically exempted in terms of section 15 of the MPRA. Such exemptions for example apply to cemeteries, amateur sports grounds and properties owned by welfare organisations. A municipality must, in accordance with section 3 of the MPRA, adopt a rates policy that sets out the broad policy framework within which the municipality rates its area and must, in accordance with section 5 of the MPRA, review and if necessary amend its rates policy annually.

2. DEFINITIONS

In this policy, unless the context indicates otherwise –

Agricultural property: property envisaged in section 8(2)(d)(i),(e) and,(f)(i) of the act.

Agricultural purpose: means property in relation to the use of the land

Public benefit organisation property: property owned by public benefit organisations and used for any specified public benefit activity.

MUNICIPAL MANAGER: is the Accounting Officer of the Municipality

PED Manager is the Manager responsible for Planning and Economical Development in the Municipality.

CFO is the Chief Financial Officer in the Municipality

"Bona fide farmer", farmer who is carrying on farming operations where his/her intentions are genuine intentions to develop land as a farming proposition in the hope, based on reasonable ground that an ultimate profit will be derived.

"business", in relation to property, means the use of property for the activity of buying, selling or trading in commodities or services on a property and includes any office or other accommodation on the same property, the use of which is incidental to such activity, **but does not** include the business of agriculture, farming, eco-tourism or any other business consisting of the cultivation of soils, the gathering in of crops, the rearing

of livestock or game/hunting or the propagation and harvesting of fish or other aquatic organisms;

Disaster” within the meaning of the Disaster Management Act (Act no.57, 2002)

“Dominant use” means the use of a property for a prominent activity

“Farming community” owners of agricultural land and their dependants

“Government”, in relation to property, means owned and exclusively used by an organ of state, but does not refer to any non-urban land owned by an organ of state and used for residential or agricultural purposes or not in use;

“Illegal use” the use of a property in a manner that is inconsistent with or in contravention of the permitted use of the property, whether in terms of the deed of the property or in terms of the applicable town –planning scheme.

“Improvement” means any building or structure on **or under** a property, but excludes –

- (a) A structure constructed solely for the purpose of rendering the property suitable for the erection of any immovable structure thereon; and
- (b) Any building, structure or equipment or machinery referred to in section 46(3) of the MPRA;

“Indigent debtor” means a debtor who is a poor private household as defined by the Municipality's policy on indigent debtors;

“industrial”, in relation to property, means the use of a property for a branch of trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, including any office or other accommodation on the erf, the use of which is incidental to the use of the factory, commercial properties and agricultural packing stores;

“Lodge” means accommodation provided for visiting guests with a focus on aspects of nature and/or places of interest, and could include a restaurant and conference facilities.

“Sectional title” ownership rights in a unit in a complex, although one did not necessarily exclusively own the land on which it was situated.

“Privately owned townships” means townships exclusively owned and all services provided and maintained by private developers.

“Limited serviced townships” means towns where the municipality is providing limited services.

“Municipal”, in relation to property, means owned and exclusively used by the Municipality;

“Municipality” means the municipality of Thabazimbi

“multiple purposes”, in relation to property, means the use of a property for more than one purposes, property rates shall be apportioned for each category, in direct proportion to the area utilised for each specific category

"residential", in relation to property, means a property's having a suite of rooms which forms a living unit that is exclusively used for human habitation purposes or a multiple number of such units, but does not refer to a hotel, commune, boarding or lodging undertaking, hostel or place of instruction;

"Permitted use": means the limited purposes for which the property may be used in terms of

- A condition of title
- A provision of the Thabazimbi's applicable town planning or land use scheme as amended from time to time
- Any legislation applicable to any specific property or property
- Any allegation of any such restriction

"Exemptions", in relations to the payment of a rate, means an exception granted to certain categories of properties from levying of full rates on the market value of the properties;

"Financial year", means the period starting from 1 July in a year to 30 June the next year;

"MPRA", refers to the Municipal Property Rates Act, No 6 of 2004;

"MFMA", refers to the Municipal Finance Management Act, No 56 of 2003

Rates Policy means a document compiled by the Thabazimbi Municipality in terms of "MPRA" in a transparent and participative manner.

"Rateable property", refers to a property on witch a municipality may in terms of the MPRA levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of MPRA;

"Small holdings" means

Other Definitions not stated – the definitions as described in the "MPRA" will apply.

3. STRATEGIC FOCUS

In determining the rates, exemptions, rebates and reductions, the Municipality must consider the following:

- The impact of the rates on the community;
- the impact of the rates on businesses;
- the integrated development plan (IDP) of the Municipality;
- the local economic development strategy (LED) of the Municipality; and
- the impact of the new rating system to private poor households, agricultural communities and owners of communal land;
- The prevention of major shocks to ratepayers when moving from a site rating system to a system based on a rating on the market value (land and buildings) of a property to encourage private investments and private town developments.
- Sustainability of the rates imposed on the community
- The level of service or infrastructure to be maintained or to be provided for a specific property(ies), township or business.

4. ANNUAL ADOPTION OF THE POLICY

The rates policy will be reviewed annually in compliance with section 5(1) of the MPRA and according to the time schedule tabled by the Executive Committee in accordance with section 21(1) (b) of the MFMA. Community participation will take place in accordance with Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

Public participation will be ensured by means of an advertisement in the news papers normally distributed within Thabazimbi municipal area, Bela Bela and Brits, inviting the public to comment on the Rates Policy. Furthermore, the policy shall also be made available to the public by means of placing it on the municipality's official website. Public stakeholder meetings shall be held to discuss the comments and representations made by the public on the property rates policy.

The following annual rates policy will be approved with the annual budget in compliance with section 24 of the MFMA.

The rates policy will be available for perusal, free of charge, at:

- 4.1 Thabazimbi municipal offices
- 4.2 Regorogile municipal offices
- 4.3 Northam municipal offices
- 4.4 Leeuport municipal offices
- 4.5 Rooiberg municipal offices
- 4.6 Community service centres
- 4.7 The Municipality's web site at: www.thabazimbi.gov.za

5. KEY PRINCIPLES

5.1 Equity

Liable rate payers will be treated equal according to the level of service they received. The fundamental principle is that ratepayers in similar circumstances will pay similar amounts of tax.

However, the circumstances of an individual ratepayer are only taken into account when exemptions, reductions or rebates are to be granted. Rates are levied on an *ad valorem* (by value) basis that is pro rata to the value of the property. This is generally considered sufficient to meet the equity principle because two ratepayers with the same property values will pay the same amount of tax (excluding any exemptions, rebates and reductions). A ratepayer with a property that has a high value will pay proportionately more than a ratepayer with a property that has a lower value.

In the local government context, the application of the equity principle would suggest that the tax (the rate in the rand) would be the same for all ratepayers in a municipal area, unless some compelling application of other taxation principles changes the incidence of the tax. The main reasons one ratepayer may pay a different rate than another ratepayer are:

- different rates levied on different categories;
- exemptions;
- rebates
- reductions
- market value of the property

To retain the historical level of contribution of the various categories of properties and including and encouraging new rate payers to the income from assessment rates and therefore minimise the impact on ratepayers.

5.2 Affordability

- The ability of ratepayers to pay for their total municipal services will be taken into account by the Municipality. In dealing with the pensioners, poor, indigents and ratepayers, the Municipality will provide relief measures through exemptions, reductions or rebates. The circumstances and standard of living of the ratepayer will also be taken into consideration when rebates, reductions and exemptions are determined.
- The Municipality will endeavour to limit the annual increase in revenue from the property rates to the increase in the consumer price index (CPI), and the budget growth guidelines provided by National Treasury, except when the integrated development plan (IDP) of the Municipality provides for a greater increase.

5.4 Sustainability

The rates policy will be implemented in a way to ensure and support a sustainable local government by providing a stable and realistic revenue source, support local social and economic development, by means of tax base which is economically sustainable for the tax payers

6. AMOUNT DUE FOR RATES

The Thabazimbi Municipality will, as part of each annual operating budget process, determine a rate in the rand for every category of properties; during which process, public participation will take place.

The municipality may however grant different categories of properties relieve in a form of exemptions, reductions and rebates to be determined by the council.

7. LIABILITY FOR RATES

- Rates levied by the Municipality on a property must be paid by the owner of the property. Rates will be levied monthly.
- If an amount due for rates is unpaid by the owner of the property, the Municipality may recover the amount from the tenant or occupier of the property. The amount due for rates may be recovered from the agent of the owner.

- Where the rates levied on a property are based on a supplementary valuation made in terms of section 78(1) of the MPRA, the rates are payable from one of the dates contemplated in section 78(4) of the MPRA.
- The recovery of rates by the Municipality will be in accordance with the Municipality's debt collection policy (credit and debt control policy).
- The municipality shall furnish ratepayers with rates accounts on a monthly basis for the payment of rates specifying:
 - The amount due for rates payable
 - The date on or before which the amount is payable
 - How the amount was calculated
 - The market value of the property
 - The exemptions, reductions, rebates and special rating
 - The ratepayers is liable for payment of rates whether or not that person has received an account, if a person has not received an account, that person must make the necessary inquiries from the municipality.
 - The municipality may furnish a consolidated account to the ratepayers in terms of the municipality's Credit Control and Debt Collection By-Law.

8. VALUATION OF RATEABLE PROPERTIES

- The Municipality will undertake a general valuation of all rateable properties as defined in the MPRA and prepare a valuation roll every four years.
- Supplementary valuations will be undertaken on an ongoing basis and supplementary valuation rolls will be prepared once a year.
- Amendments to the valuation roll to reflect changes to the owner, address, category, extent, description or other prescribed particulars will be made annually in accordance with section 79 of the MPRA, and only the electronic copy of the valuation roll will be updated.

9. LEVYING OF RATES

9.1 Impermissible Rates/ Property Not Rated

In terms of section 229(2) (a) of the constitution read with section 16(1) of the MPRA, a municipality may not exercise its powers to levy rates on property in a way that would materially and unreasonably prejudice:

- National economic policies.
- Economic activities across its borders.
- The national mobility of goods, services, capital or labour.
- Transportation corridors and public service infrastructure.
- Other impermissible rates shall be in terms of section 17 of MPRA.

9.2 Categories

The category of property is determined by the zoning and actual use of the property. The municipal valuer is responsible for categorising properties and maintaining the categories, as any change in the use of a property may result in a change in category.

The Municipality has determined the following categories in terms of section 8(1) of the MPRA:

- (a) Residential Properties
 - I. Residential property
 - II. Sectional title
 - III. Leeuport town
- (b) Industrial properties
- (c) Business and commercial properties
- (d) Farm properties used for:
 - I. Agricultural purposes
 - II. Other business and commercial purposes
 - III. Residential purposes
 - IV. Purposes other than those specified in subparagraphs (i) and (ii)
- (e) Farm Properties not used for any purpose
- (f) Small holdings used for;
 - I. Agricultural purposes
 - II. Other business and commercial purposes
 - III. Residential purposes
 - IV. Purposes other than those specified in subparagraphs (i) and (ii)
- (g) State owned properties
 - I. State owned properties for schools
 - II. Private commercial activities on state-owned properties
- (h) Municipal Properties
 - I. Private commercial activities on municipal properties
 - II. Residential occupied dwellings on municipal properties
- (i) Public Service Infrastructure
- (j) Public Service Infrastructure, Privately owned towns serviced by the owner
- (k) Formal and informal settlements

9.3 Relief Mechanisms (rebates, reductions and exemptions)

In compliance with MPRA certain categories of properties shall be exempt and rebated from levying of full rates, the relief mechanisms shall be determine in accordance with a budget-related policy on an annual basis.

Rebates should be changed at the end of each financial year and with the full participation of the ratepayers that will be affected by such a change. The ratepayers' objections should be considered with reasonable care.

Changes to the rebates to rebates should be prevented as far as possible and only be considered when the circumstances of such ratepayers have changed considerably.

9.3.1 Rebates

9.3.1.1 Categories of property:

- (a) Residential properties: The municipality grants a 40 % rebate, which applies to improved residential property that is:
 - I. used predominantly for residential purposes, with not more than two dwelling units per property

- II. registered in terms of the Sectional Title Act
- III. owned by a share-block company
- IV. privately developed estates
- V. a rateable residence on property used for or related to educational purposes

(b) Additional 20% shall be granted to townships with limited services such as Leeupoort.

(c) Privately developed estates: The municipality grants an additional rebate of 30%, which applies to privately developed estates.

(e) Agricultural property rebate: The municipality grants a 75 % rebate, which applies to owners of agricultural properties used for farming purposes.

(f) Public Service Infrastructure: The municipality grants a rebate of 75% as they provide essential services to the community.

9.3.1.2 Categories of owners:

(a) Retired and Disabled Persons Rate Rebate

i. Retired and Disabled Persons qualify for an additional rebate of 20% according to monthly household income. To qualify for the rebate a property owner must:

- a. occupy the property as his/her normal residence;
- b. be at least 60 years of age or in receipt of a disability pension from the statutory institutions or registered financial services providers;
- c. be in receipt of a total monthly income from all sources (including income of spouses of owner) not exceeding twice the amount of pension as pronounced by the minister of finance
- d. not be the owner of more than one property; and
- e. provided that where the owner is unable to occupy the property due to no fault of his/her own, the spouse or minor children may satisfy the occupancy requirement.

ii. Property owners must apply on a prescribed application form for a rebate as determined by the municipality.

iii. Applications must be accompanied by a certified copy of the identity document or any other proof of the owners age which is acceptable to the municipality;

- b. sufficient proof of income of the owner and his/her spouse;
- c. an affidavit from the owner;
- d. if the owner is a disabled person proof of a disability pension payable by the relevant institution must be supplied; and
- e. if the owner has retired at an earlier stage for medical reasons (proof thereof must be submitted).

iv. These applications must reach the municipality by a date determined by the municipality, preceding the start of the new municipal financial year for which relief is sought (except in the year of implementation of this policy where the approved applications will be implemented retrospectively from 1 July of that year).

v. The municipality retains the right to refuse rebates if the details supplied in the application form were incomplete, incorrect or false.

9.3.2 Rebates Applicable To Agricultural Land

The rebates applicable:

As defined in the MPRA and applicable regulations from time to time.

9.3.3 Rebate Applicable To Private Owned Towns

Rebates to private owned towns shall be determined on the same basis as the other properties in the policy.

9.3.4 Rebate Applicable To Communal Land

As defined in the MPRA.

9.3.5 Exemptions

The Municipality grants an exemption from the payment of rates in respect of the following:

- (a) Any rateable property registered in the name of a welfare organisation registered in terms of the National Welfare Act, 1978 (Act 100 of 1978);
- (b) Any hospital, health clinic or institution for mentally ill or handicapped persons that is operated not with the intention to make profit and is registered for tax exemptions in terms of the Income Tax Act because of those activities;
- (c) Any rateable property registered in the name of a public benefit organisation that carries out specified public benefit activities;
- (d) Any cemetery or crematorium that is registered in the name of a private person and that is used exclusively for burials or cremations, as the case may be;
- (e) Any museum, art gallery, library or botanical garden including ancillary business activity that is registered in the name of a private person and that is open to the public, whether admission is charged or not;
- (f) Any national monument, including any ancillary business activity conducted at a national monument;
- (g) Any rateable property registered in the name of a trustee or trustees or any organisation that is being maintained for the welfare of war veterans;
- (h) Any sports grounds used for the purposes of amateur sport or any social activity connected with such sport;
- (i) Any rateable property registered in the name of youth organisation or any organisation that promotes the welfare of the youth or any rateable property let by the Municipality to any such organisation;
- (j) Any rateable property registered in the name of a declared institution as defined in section 1 of the Cultural Institutions Act, 1969 (Act 29 of 1969), or the Cultural Institutions Act (House of Assembly), 1989 (Act 66 of 1989);

- (k) Any residential property that is occupied by the owner of the property and has a value below an amount to be determined during the budget process which amount should not be less than R15 000.
- (l) Any property on or under which public service infrastructure is erected;
- (m) Property zoned for private road purposes and incidental thereto
- (n) Any person who as defined in the indigent policy of the council.–
- (o) Any public school; and
- (p) Any independent school
- (q) Any property or portion thereof, used as a pre-primary school or day Care centre.
- (r) Any property or portion thereof, used as a place of worship

The exemption in (m) to (q) will be granted after an application has been considered by the municipal valuer and approved by the PED Manager and the CFO.

Should the use or ownership or circumstances used to approve exemption from payment of assessment rates change, such exemptions will immediately lapse from date of change.

10. PHASING IN OF RATES

The rates to be levied on newly rateable property and property of specified public benefit organisations shall be phased in as provided for in section 21 of the MPRA.

11. DISCLAIMER

If any dispute takes place about application of the rates policy, the aggrieved party must submit in writing a letter to the Municipal Manager. If the matter has not been resolved within 30 days of the date the letter has been submitted, the aggrieved must submit a second letter to the municipal manager, indicating that this is a second letter submitted on the same issue. If the Municipal Manager does not respond in writing within 14 days of receipt of the second letter, the aggrieved rate payer will be deemed to enter into a dispute with the municipality, in terms of section 102 (2) of MSA.

APPENDIX: SUMMARY OF THE LEGAL POSITION RELATING TO THE SETTING AND COLLECTION OF RATES

LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT, 2004 (ACT 6 OF 2004) ("MPRA")

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT 53 OF 2003) ("MFMA")

This is a summary of the legal position and is not intended to cover the full content of either the MPRA or the MFMA. The summary focuses on those requirements that are immediately relevant to a municipality's rates policy.

A municipality may levy rates in its municipal area. It must exercise its power to levy rates subject to section 229 and any other applicable provisions of the Constitution, the provisions of the MPRA, and its rates policy.

In terms of section 46 of the MPRA, the basis of valuation is market value. Property must be valued by a valuer engaged or employed by the municipality in terms of section 33 of the MPRA. Anyone may lodge an objection to an entry in the valuation roll that is prepared by the municipal valuer.

Rates are based on the market value of a property, multiplied by a rate in the rand set each year by the municipality in question in terms of section 7 of the MPRA. The owner of the land (unless the municipality is advised otherwise) is the principal ratepayer, and rates may be recovered as a debt against the principal ratepayer. In certain cases the occupier of the land may be classed as the principal ratepayer in terms of sections 24 and 25 of the MPRA.

Section 26 of the MPRA provides that rates may be paid either monthly or annually, but section 64 of the MFMA currently requires that accounts for municipal tax be prepared on a monthly basis or less often as may be prescribed. A municipality may also make payment arrangements with ratepayers if an instalment of rates is not paid by the due date. A municipality's credit control and debt collection by-laws must prescribe the process for recovering rates in the case of non-payment.

In terms of section 3 of the MPRA, the council of a municipality must adopt a policy consistent with the MPRA on the levying of rates on rateable property in the municipality. The rates policy must take effect on the effective date of the first valuation roll prepared by the municipality in terms of the MPRA, and the policy must accompany the municipality's budget for the financial year concerned when that budget is tabled in the council in terms of the requirements of the MFMA.

The rates policy must treat persons liable for rates equitably and determine the criteria for levying different rates for different categories of property and granting exemptions, rebates or reductions. The effect of rates on poor residents and organisations conducting specified public benefit activities must also be considered.

Any exemptions, rebates or reductions granted under and provided for in the rates policy adopted by a municipality must comply and be implemented in accordance with a national framework that may be prescribed after consultation with local government.

No municipality may grant relief in respect of the payment of rates to the owners of properties on an individual basis.

Before a municipality adopts its rates policy, the municipality must follow the process of community participation envisaged in Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000). The draft policy must be displayed for a period of at least 30 days at the municipality's head office, satellite offices and libraries and on the official website of the municipality. An advertisement informing the community of this must be placed in the media.

The rates policy must be reviewed annually and by-laws must be adopted to give effect to the policy.

The MPRA provides for the exclusion of certain properties from the payment of rates. The first R15 000 of the value of residential properties is excluded and land belonging to land reform beneficiaries is excluded for the first ten years of ownership.

A municipality may not levy different rates on residential properties.

The Minister of Provincial and Local Government may set an upper limit on the percentage by which rates on properties or a rate on a specific category of properties may be increased.

Rates levied on newly rateable property and on property owned by a land reform beneficiary must, after the exclusion period has lapsed, be phased in over a period of three financial years.

A register in respect of all properties situated within a municipality must be maintained. Part A of the register is the current valuation roll and supplementary valuation rolls and Part B contains those properties that are exempted, receive a rebate or reduction, are subject to phasing or are excluded from rates.

Written accounts must be issued by the municipality and a ratepayer is obliged to make enquiries if an account is not received.

If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined for payment by the municipality, the municipality may recover the amount in whole or in part from a tenant, occupier or agent of the owner, despite any contractual obligation to the contrary. The amount recovered is limited to the amount of the rent or other money due.

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