

# **MANGAUNG METROPOLITAN MUNICIPALITY**

## **BY-LAWS RELATING TO PROPERTY RATES**

**as promulgated in Provincial Gazette**

**№ 60 of 25 October 2013**

### **Amended Property Rates By-law, 2013**

#### **Purpose**

To allow the Municipality 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.

#### **Preamble**

WHEREAS the Constitution establishes local government as a distinctive sphere of government, interdependent, and interrelated with the national and provincial spheres of government; and

WHEREAS there is agreement on the fundamental importance of local government to democracy, development and nation-building in our country; and

WHEREAS there is fundamental agreement in our country on a vision of democratic, accountable and developmental local government, in which municipalities must strive within its financial and administrative capacity, to achieve their constitutional objectives by ensuring the provision of sustainable, effective and efficient municipal services to communities, by promoting social and economic development, by promoting a safe and healthy environment, and by encouraging the involvement of communities in the matters of local government; and

WHEREAS the Municipal Property Rates Act, NO.6 of 2004 authorizes and empowers municipalities to give effect to its Rates policy by adopting by-laws;

BE IT THEREFORE ENACTED by the Municipal Council of the Mangaung Metropolitan Municipality as follows:

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## 1. Definitions

- (1) 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-

**"Act"** means the Local Government: Municipal Property Rates Act, 2004 (Act NO.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;

**"Annually"** means once every financial year;

**"Business 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; or
- (b) property on which the administration of the business of private or public entities take place;

**"Category"**

- (a) in relation to property, means a category of properties determined in terms of Section 8 (2) of the Act;
- (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 a household where the main caregiver of the said household is younger than 21 years of age. Child-headed household means a household headed by a child as defined in the section 28(3) of the Constitution.

**"Exclusion"** in relation to a municipality's rating power, means a restriction of that power as provided for in section 16 and 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.

**"Farm property or small holding used for agricultural purpose"** – means property that is used for the cultivation of soils for purposes of planting and gathering in of crops; forestry in the context of the planting or growing of trees in a managed and structured fashion; the rearing of livestock and game or the propagation and harvesting of fish, but excludes the use of a property for the purpose of eco-tourism; and in the respect of property on which game is reared, trade or hunted, it excludes any portion that is used for commercial or business purposes;

**"Farm property or small holding not used for any purpose"** – means agricultural property or an agricultural zoned land unit situated outside an urban region which is not used for farming purposes, regardless of whether such portion of such property has a dwelling on it which is used as a dwelling and must be regarded as residential property;

**"Guesthouse"** means accommodation in a dwelling-house or second dwelling where up to 10 rooms are used for the purpose of supplying lodging and meals to transient guests for compensation, in an establishment

which exceeds the restrictions of a bed and breakfast establishment and may include business meetings or training sessions for resident guests;

**"Market value"** in relation to a property, means the value of the property determined in accordance with section 46 of the Act.

**"Multiple purposes"**, in relation to a property, means the use of a property for more than one purpose.

**"Municipality"** means the Mungaung Metropolitan Municipality, and when referred to as

- (a) an entity, means Mungaung Metropolitan Municipality as described in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Mungaung Metropolitan Municipality as determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998);
- (c) a person, means any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"Municipal properties"** refers to property that is registered in the name of the Municipality and property vested by usage in the name of the Municipality whether it is used by the Municipality itself or made available to other entities without cost or in terms of a rental agent

**"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.

**"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.

**"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;
- (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 state which owns or controls that public service infrastructure as envisaged in the definition of 'publicly controlled' determined by the Act, provided that a person mentioned below may for the purposes of this by-law 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
- (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.

**"Person"** includes an organ of state

**"Private open space"** means land that is privately owned and used for practising of sport, play- or leisure facilities or used as a botanical garden, cemetery or nature area;

**"Privately owned townships 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 rates-related services inclusive of installation and maintenance of streets, roads, sidewalks, lighting, storm water drainage facilities, parks and recreation facilities, are installed at the full cost of the developer and are rendered and maintained by the residents, Home owners association or management companies/ bodies of such estate;

**"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 in terms of legislation; or
- (d) public service infrastructure;
- (e) Where improvements encroach over common boundaries of properties or where the utility of property achieve its highest and best use jointly with other property, the City Valuer will nominate one of those properties as the "Parent" property. The other property/ies will be linked to this property in the Valuation Roll and will be referred to as "Child/ren". This economical unit will be valued as a single property, in conformity to the realities of the market. To accommodate the Mangaung billing system the total value will then be split as follow:
  - (i) A nominal value of not more than the individual land value only, will be entered on each "Child" property,
  - (ii) The sum of all the "Child" nominal values will be subtracted from the total value,
  - (iii) The balance will be entered against the "Parent" property
  - (iv) The category classification of "child/ren" will follow that of the "parent" property regardless of actual use .

**"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;
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) 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) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) 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;

- (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) a right registered against immovable property in connection with infrastructure mentioned in paragraphs (a) to (i).

**"Rebate"** in relation to a rate payable on property, means a discount granted, in terms of section 15 of the Act, 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 Act, of the amount for which the property was valued and the rating at that lower amount.

**"Residential property"** means a building designed for, or containing provision for human habitation, together with such outbuildings is ordinarily used therewith:-

- (a) is used exclusively for residential purposes. (b) is a unit registered in terms of the Sectional Title Act and used exclusively 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.
- (e) Retirement schemes and life right schemes used exclusively for residential purposes.

And specifically exclude hostels, guest houses and vacant land irrespective of its zoning or intended use.

**"State owned property"** refers to property used or owned by the State other than public service infrastructure

**"Student dwelling"** refers to a dwelling or part of thereof used for accommodation of a maximum of 10 students on a site with a maximum size of 1 100m<sup>2</sup>, a maximum of 12 students on a site that varies between 1 101m<sup>2</sup> – 1 500m<sup>2</sup> and a maximum of 14 students on a site bigger than 1 500m<sup>2</sup>, receiving instruction at a place of instruction or adult instruction, subject to the provisions of sub-sections 18.2 (read with Table IV), 18.6. A second dwelling can be permitted on the premises on condition that no restrictive conditions are registered in the relevant title deed that prohibits the development of a second dwelling on the site. In the case of two dwellings on one erf the maximum accommodation allowed will be for a total of 14 students (depending the size of the erf). Cognition must be taken that no detached rooms will be permitted on the premises.

**"Vacant land"** means any land on which no immovable improvements have been erected.

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

## 2. Principles

- (1) Apart from meeting legislative requirements, this by-law also emanates from the objectives determined in Council's anti-corruption policy.
- (2) The levying of rate on a property is an exclusive right of the Municipality which will be exercised: –
  - (a) optimally and comprehensively within the Municipality; and
  - (b) with consideration of the total revenue source of the Municipality.

- (3) The rating of properties will be done independently, justly, equitably and without prejudice and this principle will also be applied with the determination of criteria for exemptions, reductions and rebates as provided for in section 15 of the Act
- (4) The levying of property rates must be implemented in such a way that: -
  - (a) it is aimed at development;
  - (b) it promotes sustainable local government by providing a stable and constant revenue source within the discretionary control of the Municipality; and
  - (c) it promotes economic, social and local development.
- (5) Property rates will be levied to: –
  - (a) correct the imbalances of the past; and
  - (b) minimise the effect of rates on the indigent.
- (6) The market value of a property serves as basis for the calculation of property rates.
- (7) The rate tariff will be based on the value of all rateable properties and the amount the Municipality needs to fund community and subsidised services, after taking into account any possible surplus generated from trading and economic services and the amounts required to finance exemptions, rebates and reductions of rate, as approved by council from time to time.
- (8) Trade and economic services will be financially ring fenced and tariffs and service charges will as far as possible be calculated in such a way that the revenue generated covers the cost of the services or generate a surplus.
- (9) The provision for operating capital and bad debt must be related to community and subsidised services and must not include any provisions in respect of trade and economic services.
- (10) Property rates will be used to finance community and subsidised services.
- (11) Surpluses from trade and economic services may be used to subsidise community and subsidised services.
- (12) The revenue basis of the Municipality will be optimally protected by limiting the exemptions, rebates and reductions.
- (13) The Chief Financial Officer must, subject to the guidelines provided by the National Treasury and Mayoral Committee of Council, make provision for the following categories of municipal services: –
  - (a) Trade services
  - (b) Economic services
  - (c) Community services funded from Property Tax

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

- (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 Council once he becomes aware of such conflicts and will propose changes to the municipality's by-laws to eliminate such conflicts.
- (2) If there is any conflict between this by-law and the property rates policy of the municipality this by-law shall prevail.

- (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) This by-law gives effect to the municipality's property rates policy.

#### **4. Principles Applicable to Financing Services**

- (1) The municipal manager or his 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 subsections (1)(a) and (b).

- (2) Trading and economic services as referred to in subsections (1)(a) and (b) must be ring fenced and financed from service charges while community and subsidised services referred to in subsection(1 )(c) will be financed from surpluses on trading and economic services, regulatory fees, rates and rates related income.

#### **5. Categories of Property**

- (1) Different rates may be levied in respect of the categories of rateable properties as determined by the municipality's rates policy.
- (2) Such rates will be determined on an annual basis during the compilation of the municipality's budget.
- (3) In determining the category of a property referred to in subsection (1) the municipality shall take into consideration the dominant use of the property, regardless the formal zoning of the property.
- (4) 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.

#### **6. Categories of Owners**

- (1) For the purpose of granting exemptions, reductions and rebates in terms of sections 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;
  - (e) Owners of farm properties used for agricultural purposes.

- (f) Child headed families where any child of the owner or child who is a blood relative of the owner of the property, is responsible for the care of siblings or parents of the household.
- (g) Owners of farm properties that are used for residential purposes;
- (h) Owners of farm properties that are used for industrial, commercial and business purposes;
- (i) Owners of smallholdings used for residential purposes;
- (j) Owners of smallholdings used for industrial, commercial and business purposes;
- (k) Owners of developed properties not yet sold and transferred; and
- (l) Those owners who qualify as retired and disabled persons

## **7. Differential Rating**

- (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.
- (2) Differential rating among the various property categories will be done:
  - (a) by way of setting different cent amount in the rand for each property category; and
  - (b) by way of reductions and rebates as provided for in this by-law document.

## **8. Exemptions and Impermissible Rates**

- (1) Categories of property and categories of owners as determined by the municipality's rates policy on an annual basis will be exempted from paying rates.
- (2) Conditions determined by the rates policy will be applied accordingly.
- (3) Exemptions will automatically apply where no applications are required.
- (4) Rates may not be levied by the municipality on properties prescribed in Section 17(1) of the Act.
- (5) Public Benefit Organisations performing a specific public benefit activity and registered in terms of the Income Tax Act, 1962 (No 58 of 1962) for tax reduction because of those activities, may apply for exemption of property rates, on conditions as determined by the municipality's rates policy.
- (6) The municipality retains the right to refuse the exemption or cancel any exemption if the details supplied in the application form were incomplete, incorrect or false.
- (7) The extent of the exemptions implemented will annually be determined by the municipality and it must be included in the annual budget.

## **9. Reductions**

- (1) Reductions as contemplated in section 15 of the Act will be considered on an *ad-hoc* basis in the event of the following:
  - (a) Partial or total destruction of a property.
  - (b) Disasters as defined in the Disaster Management Act, 2002 (Act No.57 of 2002).
- (2) The following conditions shall be applicable in respect of subsection (1):

- (a) The owner referred to in subsection (1)(a) 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 or she will also have to indicate to what extent the property can still be used and the impact on the value of the property.
- (b) 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).
- (c) A maximum reduction determined by the municipality will be allowed in respect of both subsections (1) a) and (b)
- (d) An ad-hoc reduction will not be given for a period in excess of 6 months, unless the municipality gives further extension on application.
- (e) 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.

#### **10. Rebates**

- (1) Categories of property
  - (a) The municipality may grant rebates to categories of property as determined in the municipality's rates policy.
- (2) Categories of owners
  - (a) The municipality may grant rebates to categories of owners as determined annually in the municipality's rates policy.
- (3) Applications by property owners for rebates must reach the municipality before the date determined by the property rates policy, preceding the start of the new municipal financial year for which relief is sought.
- (4) Conditions determined by the rates policy will be applied accordingly.
- (5) The municipality retains the right to refuse rebates if the details supplied in the application form were incomplete, incorrect or false.
- (6) 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.
- (7) The extent of the rebate, in terms of subsections (1), (2) and (6), shall annually be determined by the municipality and it shall be included in the annual budget.

#### **11. Payment of Rates**

- (1) Payments will be dealt with in accordance with the provisions of the municipality's Credit Control, Debt Collection and Indigent policies.
- (2) Interest shall be paid to Council on rates which have not been paid within 30 days from the date on which such rates become due at a rate of 1% higher than the prime rate for the period during which such rates remain unpaid after the expiry of the said period of 30 days.
- (3) 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,
  - (ix) the market value of the property, and
  - (v) rebates, exemptions, reductions or phasing-in, if applicable

- (4) 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 or she must make the necessary enquiries with the municipality.
- (5) 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.

## **12. Frequency of Valuation**

- (1) The municipality shall prepare a new valuation roll every 4 (four) years.
- (2) The municipality, under exceptional circumstances, may request the MEC for Local Government and Housing in the province to extend the validity of the valuation roll to 5(five) years.
- (3) Supplementary valuations will be done at least on an annual basis to ensure that the valuation roll is properly maintained.

## **13. Community Participation**

- (1) Before Council commands a new valuation in terms of the Act, a consultation process involving all interest groups will be undertaken during which the purpose and method of valuation will be explained.
- (2) Before the Municipality adopts revised rates policy and by-law, the Municipality must follow the process of community participation envisaged in chapter 4 of the Municipal Systems Act, 2000 (Act No. 32 of 2000), and comply with subsection 4(2) and (3) of the Act.

## **14. Register of Properties**

- (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.
- (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.
- (3) Part B of the register will specify which properties on the valuation roll or any supplementary valuation roll are subject to:
  - (a) Exemption from rates in terms of section 15 of the Act,
  - (b) Rebate or reduction in terms of section 15 of the Act,
  - (c) Exclusion referred to in subsection 17 (1) (a), (e), (g), (h) and (i) of the Act.
- (4) The register will be open for inspection by the public at the municipal pay points as determined in the municipality's rates policy, during office hours and/or on the website of the municipality.
- (5) The municipality will update Part A of the register on a continuous basis by way of a supplementary valuation process.
- (6) The municipality will update Part B on an annual basis as part of the implementation of the municipality's annual budget.

## **15. Regular Review Processes**

- (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.

## **16. Revised Version**

- (1) This By-law is a revised (amended) version of all or any by-law previously adopted by the Municipality's Council on the property rates matters.

**17. Short title**

- (1) This by-law is called ***Mangaung, Property Rates By-law.***

**18. Commencement**

- (1) This by-law comes into force and effect on the date of its promulgation by publication in the Provincial Gazette.