

**MANGAUNG
METROPOLITAN MUNICIPALITY**



**PROPERTY RATES BY-LAW
FOR IMPLEMENTATION ON 1 JULY 2015
(Submitted to Council 25 June 2015)**

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.

Preamble

WHEREAS the Constitution established 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 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 as amended, authorises and empowers municipalities to give effect to its Property Rates Policy and adopting by-laws

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MANGAUNG METROPOLITAN MUNICIPALITY - PROPERTY RATES BY -LAW

1 DEFINITIONS

“Act” means the Local Government: Municipal Property Rates Act (Act No 6 of 2004) and any amendment thereof;

“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; 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 a household where the main caregiver of the said household is younger than 18 years of age. Child-headed household means a household headed by a child as defined in section 28(3) of the Constitution.

“Definitions, words and expressions” as used in the Act are applicable to this policy document where ever it is used;

“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(1)(a) of the Act.

“Agricultural property”, in relation to the use of a 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 eco-tourism or for the trading in or hunting of game

“Guesthouses” means accommodation in a dwelling-house or second dwelling where at least 3 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;

“Multi Purpose” in relation to a property, means the use of a property for more than one purpose subject to section 9.

“Municipality” means the **Mangaung Metropolitan Municipality**;

“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) Run ways, aprons and the air traffic control unit national or provincial airports; including the vacant land known as obstacle free zone surrounding these, which must be vacant for air navigation purposes,
- (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, 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).

‘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’;”

“Market Value” in relation to a property, means the value of the property determined in accordance with section 46 of the Act.

“Municipal Properties” refers to a 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 of a rental agent.

“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 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 an office bearer

“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 of state which owns or controls that public service infrastructure as envisaged in the definition in the Act of the term **“publicly controlled”**, provided that a person mentioned below may for the purpose 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
- viii a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such a right; or

ix 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.

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

“**Private Open Space**” means land that is owned and used for practising of sport, play- or leisure facilities or used as a botanical garden, cemetery or nature area;

“**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 “Children”. This economical unit will be valued as a single property, in conformity to the realities of the market. The other property/properties will be linked to this property in the Valuation Roll and will be referred to as “Children”. 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/children” will follow that of the “parent” property regardless of actual use.
- V Parent and Child combinations must belong to the same owner.

“ **ratio**”, in relation to section 19 of the Act, 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 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 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 property with a building designed for, or containing provision for human habitation, together with such outbuildings are 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.

“**Special Rating Area**” Council may by Council resolution determine an area within the municipality as a special rating area, and levy an additional rate on property in that area for the purpose of raising funds for improving or upgrading that area.

“**State Owned Property**” refers to property used or owned by the State other than public service infrastructure including schools, universities, technicons, colleges, hospitals etc.

“**Student Dwelling**” means a dwelling or part of a dwelling used for accommodation of a maximum of 10 students on a site with a maximum size of 1 100m², a maximum of 12 students on a site that varies between 1 101m² - 1 500m² and a maximum of 14 students on a site bigger than 1 500m², 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 on the size of the erf). Cognition must be taken that no detached rooms will be permitted on the premises.

“**Threshold**” means the amount, determined from time to time by the Council during its annual budget process referred to in section 12 of the Act, to be deducted from the market value of residential properties, resulting in rates to be determined on the balance of the market value of such properties only.

“**Vacant Land**” means any land on which no immovable improvements have been erected.

“**Zoning**” means the purpose for which land may lawfully be used or on which buildings may be erected or used, or both, as contained in any applicable Town Planning Scheme and “zoned” has corresponding meaning.

2. POLICY PRINCIPLES

Apart from meeting legislative requirements, this policy also emanates from the objectives determined in Council's anti-corruption policy.

The levying of a 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.

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.

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.

Property rates will be levied to:-

- (a) Correct the imbalances of the past; and
- (b) Minimise the effect of rates on the indigent

The market value of a property serves as basis for the calculation of property rates.

The tariff rate 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.

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.

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.

Property Rates will be used to finance community and subsidised services.

Surpluses from trade and economic services may be used to subsidise community and subsidised services.

The revenue basis of the Municipality will be optimally protected by limiting the exemptions, rebates and reductions.

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

3.1 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.

3.2 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 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) Trade services
- Water
 - Electricity
- (b) Economic services
- Refuse Removal
 - Sewerage disposal
- (c) Community and subsidies Services

These include all those services ordinarily being rendered by the municipality excluding those mentioned in subsections 1 (a) and (b).

4.2 Trading 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

- 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 subsection (i) the municipality shall take into consideration the dominant use of the property, regardless the formal zoning of the property
- 5.4 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

For the purpose of granting exemptions, reductions and rebates in terms of clause 11, 12 and 13 of the Act respectively the following categories of owners of properties are determined:-

- (a) Those owners who qualify and who are registered as indigent in terms of the adopted indigent policy of the Municipality;
- (b) Those owners who do not qualify as indigent in terms of the adopted indigent policy of the municipality but whose monthly income is less than the amount annually determined by the municipality in its budget;
- (c) Owners of property situated in 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 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; and
- (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; and
- (k) Owners of developed properties not yet sold and transferred.

7. PROPERTIES USED FOR MULTIPLE PURPOSES

The following criteria will apply to the rating of multiple use properties within the Municipality:

- a. Apportionment of the market value of a property to the different purposes for which the property is used: and
- b. Application of the relevant rate to each of the components of the property, base on its value.

8. DIFFERENTIAL RATING

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

- (a) The nature of the property including its sensitivity to rating e.g. agricultural properties used for agricultural purpose;
- (b) The promotion of local, social and economic development of the Municipality;

8.2 Differential rating among the various property categories will be done by way of setting a different cent amount in the rand for each property category.

8.3 By way of reductions and rebates as provided for in this by-law document.

9. EXEMPTIONS AND IMPERMISSIBLE RATES

8.1 Categories of property and categories of owners as determined by the Municipality's Property Rates Policy on an annual basis will be exempted from paying rates.

8.2 Conditions determined by the Property Rates Policy will be applied accordingly.

8.3 Exemptions will automatically apply where no applications are required.

8.4 Rates may not be levied by the Municipality on properties prescribed in Section 17(1) of the Act.

8.5 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 Property Rates Policy.

8.6 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.

8.7 The extent of the exemptions implemented will annually be determined by the Municipality and it must be included in the annual budget.

9. REDUCTIONS

9.1. 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 57 of 2002).

9.2. The following conditions shall be applicable in respect of subsection 1.

(a) The owner referred to in 9.1 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.

(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 to be determined on an annual basis shall be allowed in respect of both (1)(a) and 1(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

10.1. Categories of Property

- (a) The Municipality may grant rebates to categories of property as determined in the Municipality's Property Rates Policy.

10.2 Categories of owners

- (a) The Municipality may grant rebates to categories of owners as determined annually in the Municipality's Property Rates Policy.

10.3 Applications by property owners for rebates must reach the Municipality before the date determined by the Property Rates Policy.

10.4 Conditions determined by the Property Rates Policy will be applied accordingly.

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

10.6 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.

10.7 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

11.1 Payments will be dealt with in accordance with the provisions of the municipality's Credit Control, Debt Collection and Indigent policies.

11.2 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.

11.3 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,

- (iv) the market value of the property, and
- (v) rebates, exemptions, reductions or phasing-in, if applicable.

- 11.4 A person liable for a rate must furnish the municipality with an address where correspondence can be directed to.
- 11.5 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

- 12.1 The Municipality shall prepare a new valuation roll at least every four (4) years.
- 12.2 In accordance with the Act 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 five (5) years.
- 12.3 Supplementary valuations shall be done on a continual basis, but at least on an annual basis, in order to ensure that the valuation roll is maintained.

13. Community Participation

- 13.1 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.
- 13.2 Before the Municipality accepts the rates policy the municipal manager will follow a process of public participation, as prescribed in chapter 4 of the Municipal Systems Act, and comply with the following requirements: –
- 13.3 Display the draft property rates policy continuously for a period of thirty (30) days at the Municipality's head office, satellite offices and on the website.
- 13.4 Publish a notice in the media stating that the draft property rates policy was compiled for submission to council and that such a policy is available at the different municipal offices and on the website for public inspection.
- 13.5 Property owners and interested persons may obtain a copy of the draft policy from the municipal office during office hours at a prescribed cost per copy.
- 13.6 Property owners and interested parties are invited to address written suggestions or representations to the Municipality within the period prescribed in the notice.

13.7 Council will consider all suggestions and/or representations received during the finalisation of the property rates policy.

14. REGISTER OF PROPERTIES

14.1 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.

14.2 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.

14.3 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,
- ii Rebate or reduction in terms of section 15, of the Property Rates Act
- iii an exclusion referred to in subsection 17 (1) (a), (e), (g), (h) and (i)

14.4 The register will be open for inspection by the public at the municipal pay points as determined in the Municipality's Property Rates Policy, during office hours and/or on the website of the Municipality.

14.5 The Municipality will update Part A of the register on a continuous basis by way of a supplementary valuation process.

14.6 The Municipality will update Part B on an annual basis as part of the implementation of the municipality's annual budget.

15. REGULAR REVIEW PROCESS

The Property Rates Policy must be reviewed on an annual basis to ensure that it complies with the strategic objectives of the Municipality, as stipulated in the Integrated Development Plan and other applicable legislation.

16. Short Title

This by-law is called the rates by-law of the Mangaung Metro Municipality.

17. Commencement

This by-law comes into force and effect on 1 July 2015.