



Policy Name	eThekweni Municipality Property Rates Policy
Policy Number	2023/2024
Status	Approved in principle for public comments
Approved By	Full Council
Date Approved	13 December 2022
Review	Annually

PROPOSED AMENDMENTS TO THE POLICY FOR 2023/2024

Proposed changes to the Policy, as set out below, are highlighted as follows:

Preamble

Due to a review of the Policy, the following amendments to the paragraph titled 'Preamble' on page 3 of the Policy, are envisaged:

Section 229 (1) of the Constitution of the Republic of South Africa provides that a municipality may impose rates on property.

In terms of Section 4 (1) (c) of the Local Government: Municipal Systems Act, No. 32 of 2000, a municipality has the right to finance the affairs of the municipality by imposing, inter alia, rates on property.

The Local Government: Municipal Property Rates Act, No. 6 of 2004 ('the Act'), regulates the power of a municipality to impose rates on property.

In terms of the Act, a municipality:

- i. may levy a rate on rateable property in its area; and*
- ii. must exercise its power to levy a rate on property, subject to:*
 - (a) section 229 of the Constitution and any applicable provisions of the Constitution;*
 - (b) the provisions of the Act;*
 - (c) its rates policy adopted in terms of Section 3 of the Act; and*
 - (d) the municipality's by-laws as contemplated in Section 6 of the Act to give effect to the rates policy.*

This document sets out the rates policy of the eThekweni Municipality.

In terms of Section 5 of the Act read with the Local Government: Municipal Finance Management Act, No. 56 of 2000 ('the MFMA') a rates policy must be reviewed on an annual basis to support the municipality's annual budget and must accompany the municipal budget when it is tabled for the financial year concerned, in terms of Section 16 (2) of the MFMA.

Section 62 (1) (f) of the Local Government: Municipal Finance Management Act, No. 56 of 2003 ('the MFMA') read with Regulation 7 of the MFMA, namely the Municipal Budget

and Reporting Regulations stipulates that the municipal manager must ensure that the municipality has and implements, a rates policy.

Purpose

The purpose of this Policy is to:

- i) Comply with the provisions of the Act, specifically Section 3 (Adoption of a rates policy) thereof;*
- ii) Without derogating from the Act, identify fundamental principles relative to the imposition of rates on rateable properties and the collection thereof;*
- iii) Ensure the equitable treatment of persons liable for rates.;*
- iv) Determine the basis for valuation of properties;*
- v) Determine criteria for different property use categories to apply differential rates;*
- vi) Determine or provide criteria for the determination of categories of owners of properties;*
- vii) Determine criteria to be applied for granting relief in the form of exemptions, rebates and reductions to categories of properties and categories of owners;*
- viii) Determine measures to promote local economic and social development; and poverty alleviation; and*
- ix) Identify which rateable properties will not be liable for rates as provided for in Section 7 of the Act.*

Definitions and Acronyms

“Business and Commercial property” means, unless a definition in the Act or a provision in this Policy, indicates otherwise-

- (a) Property used for the activity of buying, selling or trading in commodities or services and includes any office and ancillary uses related thereto, but excludes a warehouse and distribution use;*
- (f) Property used for any purpose not mentioned in, or excluded from any other category of property but does not include a property used as a warehouse and distribution centre;*

“Commercial Accommodation” means lodging, or board and lodging, in any house, flat, apartment, room, hotel, motel, inn.... timeshare establishment ... which is regularly or systematically supplied but excludes a Primary property;

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

“Industrial Property” means

- a) In relation to any property, an industrial use, for the manufacture, production, assembly or processing of finished or partially finished products from raw material or from fabricated, rebuilt or scrap parts, and includes any office and ancillary uses related thereto, yards or buildings for the storage of goods and material associated therewith and or the loading and off-loading of goods, but shall exclude property used for business of a predominantly retail nature;
- b).....
- c) A property used for the purposes of a warehouse and distribution centre;

“Rebate”, in relation to a rate payable on a 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 of the property at that lower amount;

“Vacant land”, means subject to the provisions of Section 9 of the Act, and any use liable for categorisation other than vacant, as determined by the Municipal Valuer, a rateable property where no immovable improvements have been erected. By way of example, a property that is used as a cemetery, a car sales lot, a scrap yard, truck stop, a container storage site, etc. will not be treated as vacant land;

Property that is currently categorised as vacant land and where construction has commenced but which is incomplete, will be deemed to be vacant land. It will remain categorised as such until the Municipality’s Building Inspectorate provides the Municipal Valuer with an occupation or completion certificate as contemplated in the

National Building Regulations.

“Warehouse and Distribution Centre” means a building or land or any portion thereof used designed and used as a warehouse and distribution centre and any office, service yard or other uses ancillary therewith, but excludes property used for business of a predominantly retail nature.

Clause 1. Institutional Requirements

Clause 1.3: *Section 3 of the Act provides that a rates policy take effect on the effective date of the first valuation roll prepared by a municipality in terms of the Act. Such effective date was 1 July 2008. Subsequent thereto, 3 general valuation rolls have been prepared in terms of Chapter 4 of the Act. The effective date of the current general valuation roll is 1 July 2022.*

Clause 2. Liability for Rates

Clause 2.1: *Subject to Chapter 9 (Credit Control and Debt Collection) of the Systems Act and Section 28 (Recovery of rates in arrears from tenants and occupiers) and Section 29 (Recovery of rates from agents) of the Act, rates levied on property must be paid by the owner of the property.*

Clause 2.5: *Rates levied in terms of the Act, constitute a tax within the meaning ascribed by Section 11 (a) (iii) of the Prescription Act, No. 68 of 1969 and as such, the Municipality can recover rates in arrears for a period up to 30 years.*

Clause 2.6: *A ratepayer is liable for the payment of rates whether or not an account is received and if an account is not received, the ratepayer must make the necessary enquiries from the Municipality to ensure that payment is made on due date.*

Clause 3 Amount Due for Rates

Amendments to the second column of the table in **Clause 3.1 ii**:

Category	Ratio in relation to residential property
<i>Residential property</i>	1:1
<i>Agricultural property</i>	1:0.25
<i>Public service infrastructure properties</i>	1:0.25
<i>Specified Public Benefit Activities properties</i>	1:0.25

Clause 4. Method and Frequency of Payment of Rates

Clause 4.6: *A rate payer whose property is the subject of a supplementary valuation in terms of Section 78 of the Act, will become liable for the payment of rates based on the valuation of that property in the supplementary valuation, with effect from the relevant trigger date determined in Section 78(4).*

The monthly municipal invoice will reflect the final date on which payment of such rates, is due and payable.

Clause 5. Categories of Property

Clause 5.1.1: *The categories of rateable property will be determined according to the use of such rateable property and shall be rated accordingly in terms of the Policy read with subsection (2) and (3) of Section 8 of the Act.*

Clause 5.8: *Without derogating from the provisions of the Act, where Vacant land has been improved by the erection of a structure in accordance with a valid building plan approved in terms of legislation, the Municipal Valuer may be guided....or by the use of the property as permitted by the Land Use Scheme.*

Clause 5.9: *The MPRRR prescribes that property owned by a PBO and used for a specified public benefit activity listed in item 1 (Welfare and humanitarian); item 2 (Health Care); and item 4 (Education and development) of Part 1 of the Ninth Schedule to the Income Tax Act, will be rated at no more than 25% of the residential property rate-in-the-rand. Expressed as a ratio in relation to residential property, this is*

1:0.25.

In order for the Municipal Valuer to categorise properties as a PBO property and apply the MPRRR, an application for a change in the property rating category must be made, in the prescribed form, to the Municipal Valuer.

The following requirements must be met-

- i) The registered owner must be a PBO;*
- ii) The registered owner must provide an exemption letter from SARS confirming that the registered owner is a PBO;*
- iii) Where a property of a PBO is used by a person other than the registered owner, the user/lessee of the property must also be a PBO; and its exemption letter from SARS must be provided;*
- iv) The property must be used for specified public benefit activities in accordance with items 1, 2 or 4 of the Nineth Schedule of the Income Tax Act and as contemplated in the MPRRR;*
- v) Both the registered owner and, where applicable, the user/lessee that is a PBO, must provide copies of their organisation's memorandum of incorporation/founding documents and such other documents as the CFO or the municipal valuer may consider relevant to the consideration of the application /categorization of the property.*
- vi) The registered owner must provide a copy of the title deeds of the property and in the case of a PBO user/lessee of the property, a copy of the lease agreement.*

Clause 5.10: *All properties owned by PBO that do not fall within the definition prescribed in the MPRRR, and by virtue of the use of the property, do not fall within any other of the property categories listed in Clause 5.5, will be rated as a Business and Commercial property.*

Clause 6. Categories of Owners of Property

Clause 6.1: *For the purposes of the Act and any exemptions reductions and rebates contemplated in Section 15 thereof, the Municipality has determined the following categories of owners of property-*

h) Deleted

m) owners of property situated within an area affected by:

- i. a disaster within the meaning of the Disaster Management Act, or*
- ii. any other serious adverse or economic condition determined by resolution of the Council at its annual budget meeting or an adjustment budget meeting in terms of Section 28 of the MFMA;*

o) nature reserves or conservation areas;

p) owners of property who qualify for the economic development incentive rebate referred to Clause 14; and

Clause 7. Exemptions, Rebates and Reductions (“RELIEF”)

Applications for Relief

Clause 7b): *Unless determined otherwise in this Policy-*

- i. The owner must make application for Relief in a prescribed form no later than 30 April preceding the new Municipal financial year for which Relief is sought. Relief shall only be granted upon approval by the Municipality of the application;*
- ii. Relief shall become effective on 1 July of the financial year for which it is sought.*

h) Relief granted in error or due to false or incorrect information supplied by an applicant will be reversed immediately from date of inception of the Relief.

Clause 7.3 Disability Grantees or Medically Boarded Persons

Clause 7.3.4: *Deleted*

Clause 7.5 Public Benefit Organisations

Exemption from rates

Clause 7.5.1: *The Municipality may grant a PBO exemption from the payment of rates where the activities listed below are carried out on a property, for the benefit of the public or a section thereof, subject to Clause 7.5.2: -*

i. Welfare & Humanitarian-

Orphanage, Non-profit retirement village, Life-rights scheme, Old age home, Residential facility for physically and or mentally disabled persons.

ii. Health Care-

Hospital, clinic, mental hospital, hospice.

iii. Animal Welfare-

Care and protection of animals (aquatic and/or terrestrial), reptiles and/or birds including the rehabilitation, or prevention of the ill-treatment thereof.

iv. Education and Development-

Training, education and/or rehabilitation of persons with severe physical or mental disability.

v. Cultural-

Cemetery and/or crematorium;

Promotion, protection, preservation or maintenance of a property with Heritage Landmark status under the Heritage Act and open to the public.

Clause 7.5.2 vii. *In order to qualify for an exemption from rates,*

a) The property must be categorised as a PBO property if it is a property that is contemplated in the MPRRR. If it has not been so categorised, application must be made to the Municipal Valuer, in the prescribed form, for a change in the property rating category and for exemption from rates.

b) In the case of property that is already reflected in the valuation roll as a PBO property but not exempt from rates, alternatively, is a property that is not subject to the MPRRR, an application for exemption from rates must be made to, and be approved by, the CFO. The applicant must ensure that all criteria in Clause 7.5.2 are complied with.

Clause 7.11 Disasters

Clause 7.11.2: *The applicable requirements for a rebate are:*

- i.....*
- ii.....*
- iii. An application for a rebate must be made within one hundred and eighty days (180) days from the date of the disaster.*

Clause 7.11.3: *In making a determination in terms of Clause 7.11.1, the Council-*

- i. may determine a time frame by which an owner must restore what was damaged, destroyed or rendered uninhabitable. Subject to Clause 7.11.4, such period shall not exceed twelve (12) months.*

Clause 7.11.4: *The Municipality may grant a further extension of the rebate duration period referred to in Clause 7.11.3, on application. The applicant must apply no later than forty five (45) days prior to the expiry of such duration period. Any further period will be subject to the further rebate period determined by the Council at its annual budget meeting, but such period shall not exceed twelve (12) months.*

Clause 7.11.8: *Nothing in this Clause 7.11, shall derogate from the provisions of Section 78 of the Act and-*

- i.....*
- ii. the right of the owner of a property to make application for the revaluation of the property on account of a disaster contemplated in Clause 7.11.1.*

Clause 7.11.9: *When a property is totally destroyed, a supplementary valuation will be made in respect of the property in terms of Section 78 of the Act. This may give rise to the following-*

- i. a change in the market value of the property;*
- ii. a rating category change in respect of the property. The Municipal Valuer has the discretion to determine which category of property the property will fall into.*

Clause 7.11.10: *An owner who cannot afford to restore a property to its pre-disaster state within the time period prescribed, may still qualify for a rebate provided the following requirements are met-*

- i.*
- ii. Deleted*

Clause 7.11.11: *Notwithstanding anything to the contrary in this Policy, an owner shall not be entitled to a rebate on rates payable on a property affected by a disaster, if a supplementary valuation of the property pursuant to such disaster, results in the market value of the property decreasing. In other words, a rates rebate under this Clause 7.11 is subordinate, and subject to, the provisions of Section 78 of the Act.*

Clause 7.14.2. Nature Reserves / Conservation Areas

Clause 7.14.2.8: *Deleted*

Clause 8. Agricultural Property

Clause 8.1: *In order for a property to:*

- i. fall within the definition of 'Agricultural Property' in the Act;*
- ii. be categorised by the Municipal Valuer as an Agricultural Property;*
- iii. be rated in accordance with the MPRRR which prescribes that Agricultural Properties are to be rated at no more than 25 % of the residential property rate-in-the-rand,*
an agricultural certificate must be issued by the Municipal Valuer as contemplated in Clause 8.2.

Clause 8.2: *The owner must make application for an agricultural certificate, annually, on a prescribed form.*

Clause 8.3: *An agricultural certificate may be granted to an owner of any piece of land or part thereof, on the following basis:*

- i.*

ii.

iii.

iv. *The permitted use of the property which is to be recategorized to ‘Agricultural Property or which is to remain categorized as Agricultural Property’, must be agricultural.*

Clause 8.4: Deleted

Clause 8.5: Deleted

Clause 8.6: Deleted

Clause 8.7: Deleted

Clause 11. Unauthorised or Illegal Development or Use and Abandoned Property or Building

Clause 11.1: *Where a property is being or, has been developed or is being used without authority.....the Municipal Valuer must consider changing its category to the “Unauthorised or Illegal development or use, and Abandoned Property or Building” category.*

Clause 18. Supplementary Valuation

Clause 18.1: *The Municipal Valuer shall from time to time value new properties and revalue existing properties, and such new valuations shall be reflected in a supplementary valuation roll....*

Clause 19. General

Clause 19.3: Deleted

Clause 20: Policy Evaluation and Review

Clause 20: *This is the 15^h review of the original rates policy adopted by the Council in 2008 in compliance with the Act.*

Full view of the Property Rates Policy 2022/2023, being amended is published in the Municipality Official website. Link:
<https://www.durban.gov.za/pages/government/documents?d=Revenue%20Management/Policy%20and%20Bylaws/Rates%20Policies>.