

PROVINCIAL NOTICE

[NO. 199 OF 2011]

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000:  
PUBLICATION: STANDARD PROPERTY RATES BY-LAW**

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), make standard by-laws as set out in the Schedule.

**SCHEDULE**

**PROPERTY RATES BY-LAW**

**PURPOSE OF BY-LAW**

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

**TABLE OF CONTENTS:**

1. DEFINITIONS
2. PRINCIPLES
3. APPLICATION OF BY-LAW
4. PRINCIPLES APPLICABLE TO FINANCING OF SERVICES
5. CATEGORIES OF PROPERTY
6. CATEGORIES OF OWNERS
7. PROPERTIES USED FOR MULTIPLE PURPOSES
8. DIFFERENTIAL RATING
9. EXEMPTIONS AND IMPERMISSIBLE RATES
10. REDUCTIONS
11. REBATES
12. PAYMENT OF RATES
13. ACCOUNTS TO BE FURNISHED
14. PHASING IN OF RATES
15. SPECIAL RATING AREAS
16. FREQUENCY OF VALUATION
17. COMMUNITY PARTICIPATION
18. REGISTER OF PROPERTIES
19. REGULAR REVIEW PROCESSES
20. SHORT TITLE
21. COMMENCEMENT

**1. Definitions**

For the purpose of these by-laws any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) bears 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;

**"Municipality"** means the Local Municipality established in terms of Section 12 of the Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes 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;

**"Privately owned towns serviced by the owner"** means single properties, situated in an area not ordinarily being serviced by the municipality, divided through sub division or township establishment into (ten or more) full title stands and/ or sectional units and where all rates related services inclusive of installation and maintenance of streets, roads, sidewalks, lighting, storm water drainage facilities, parks and recreational facilities are installed at the full cost of the developer and maintained and rendered by the residents of such estate.

**"Residential property"** means improved property that –

- (a) is used predominantly (60% or more) for residential purposes including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such grouping must be regarded as one residential property for rate rebate or valuation reduction purposes.
- (b) is a unit registered in terms of the Sectional Title Act and used predominantly for residential purposes.
- (c) is owned by a share-block company and used solely for residential purposes.
- (d) is a residence used for residential purposes situated on property used for or related to educational purposes.
- (e) retirement schemes and life right schemes used predominantly (60% or more) for residential purposes.

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

**"Rural communal settlements"** means the residual portion of rural communal land excluding identifiable and rateable entities within the property and excluding State Trust Land and land reform beneficiaries as defined in the Act.

## 2. Principles

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

## 3. Application of By-law

- (1) Where this by-law conflicts with national legislation section 156(3) of the Constitution of South Africa, 1996 applies.
- (2) The Municipal Manager must bring such conflicts immediately to the attention of the municipality once he or she becomes aware of such conflicts and propose changes to the municipality's by-laws to eliminate such conflicts.
- (3) If there is any conflict between this by-law and the Property Rates policy of the municipality, this by-law will prevail.
- (4) In imposing the rate in the Rand for each annual operating budget component, the municipality must grant exemptions, rebates and reductions to the categories of properties and categories of owners.

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

- (1) The municipal manager or his or her nominee must, subject to the guidelines provided by the National Treasury and Executive Committee of the municipality, make provision for the following classification of service-
  - (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 that benefit the community as a whole, excluding those mentioned in subsection 1 (a) and (b).
- (2) Trading and economic services as referred to in subsection (1) (a) and (b) must be ringfenced 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 must take into consideration the dominant use of the property regardless the formal zoning of the property;
- (4) Properties used for multiple purposes must be categorised and rated as provided for in section 9 of the Act and as more fully described in section 7 of this by-law.

#### **6. Categories of owners**

For the purpose of granting exemptions, reductions and rebates in terms of section 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 properties situated in privately owned towns as determined by the municipality's rates policy;
- (f) Owners of agricultural properties as determined by the municipality's rates policy; and
- (g) 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.

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

Rates on properties used for multiple purposes will be levied on the dominant use of the property.

## 8. 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 by way of setting different cent amount in the rand for each property category and by way of reductions and rebates as provided for in the municipality's rates policy document.

## 9. 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).
- (5) Public Benefit Organisations performing a specific public benefit activity and registered in terms of the Income Tax Act, 1962 ( Act 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 if the details supplied in the application form are 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.

## 10. 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 are applicable in respect of subsection (1)
  - (a) The owner referred to in subsection (1) (a) must apply in writing for a reduction and the onus will rest on such applicant to prove to the satisfaction of the municipality that his or her 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).
- (3) A maximum reduction determined annually by the municipality will be allowed in respect of subsection (1)
  - (a) An ad-hoc reduction will not be given for a period in excess of 6 months, unless the municipality gives further extension on application.
  - (b) If rates were paid in advance prior to granting of a reduction the municipality will give credit to such an owner as from the date of reduction until the date of lapse of the reduction or the end of the period for which payment was made whichever occurs first.

## 11. Rebates

- (1) The municipality may grant rebates to categories of property as determined in the municipality's rates policy.
- (2) The municipality may grant rebates to categories of owners as determined annually in the municipality's rates policy.
- (3) Conditions determined by the rates policy will be applied accordingly.
- (4) Applications for rebates must reach the municipality before the date determined by the property policy, preceding the start of the new municipal financial year for which relief is sought.

- (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 subsection (1), (2) and (6) will annually be determined by the municipality and must be included in the annual budget.

## 12. Payment of rates

- (1) Council may levy assessment rates-
  - (a) On a monthly basis or less regular as determined by the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) or
  - (b) Annually, as agreed with the owner of the property.
- (2) The municipality must determine the due dates for payments in monthly instalments and the single annual payment and this date must appear on the accounts forwarded to the owner, tenant, occupants or agent.
- (3) Rates payable on an annual basis, will be subject to a discount of 5% if paid in full on or before 30 September of each year.
- (4) Interest on arrears rates, whether payable on or before 30 September or in equal monthly instalments, must be calculated in accordance with the provisions of the Credit Control and Debt Collection Policy of the Municipality.
- (5) If a property owner who is responsible for the payment of property rates in terms of the rates policy, fails to pay such rates in the prescribed manner, it will be recovered from him or her in accordance with the provisions of the Credit Control and Debt Collection By-law of the Municipality.
- (6) Arrears rates must be recovered from tenants, occupiers or agents of the owner, in terms of section 28 and 29 of the Act and the Municipality's Credit Control and Debt Collection By-law.
- (7) Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable must be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.
- (8) Where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable must be levied at the maximum rate permitted by prevailing legislation.

## 13. Accounts to be furnished

- (1) The municipality will furnish each person liable for the payment of rates with a written account, which will specify:
  - (a) the amount due for rates payable,
  - (b) the date on or before which the amount is payable,
  - (c) how the amount was calculated,
  - (d) the market value of the property, and
  - (e) rebates, exemptions, reductions or phasing-in, if applicable.
- (2) A person liable for payment of rates remains liable for such payment, whether or not such person has received a written account from the municipality. If the person concerned has not received a written account, he or she must make the necessary enquiries with the municipality.
- (3) In the case of joint ownership the municipality must consistently, in order to minimise costs and unnecessary administration, recover rates from one of the joint owners only provided that it takes place with the consent of the owners concerned.

## 14. Phasing in of rates

- (1) The rates to be levied on newly rateable property must be phased in as provided for in section 21 of the Act.
- (2) The phasing-in discount on the properties referred to in section 21 of the Act are as follows:
  - (a) First year : 100% of the relevant rate;
  - (b) Second year : 100% of the relevant rate;

- (c) Third year : 100% of the relevant rate;
  - (d) Fourth year : 100% of the relevant rate;
  - (e) Fifth year : 50% of the relevant rate; and
  - (f) Sixth Year : 25% of the relevant rate.
- (3) No rates must be levied on newly rateable properties that are owned and used by organisations conducting activities that are beneficial to the public and that are registered in terms of the Income Tax Act for those activities, during the first year. The phasing-in discount on these properties must be as determined below:-
- (a) First year : 75% of the relevant rate;
  - (b) Second year : 50% of the relevant rate; and
  - (c) Third year : 25% of the relevant rate;

## 15. Special rating areas

- (1) The municipality will, whenever deemed necessary, by means of a formal Council resolution determine special rating areas in consultation with the relevant communities as provided for in section 22 of the Act.
- (2) The following matters must be attended to in consultation with the committee referred to in subsection (3) whenever special rating is being considered:
  - (a) Proposed boundaries of the special rating area;
  - (b) Statistical data of the area concerned giving a comprehensive information of the number of erven with its zoning, services being rendered and detail of services such as capacity, number of vacant erven and services that are not rendered;
  - (c) Proposed improvements clearly indicating the estimated costs of each individual improvement;
  - (d) Proposed financing of the improvements or projects;
  - (e) Priority of projects if more than one;
  - (f) Social economic factors of the relevant community;
  - (g) Different categories of property;
  - (h) The amount of the proposed special rating;
  - (i) Details regarding the implementation of the special rating;
  - (j) The additional income that will be generated by means of this special rating.
- (3) A committee consisting of 6 members of the community residing within the area affected may be established to advise and consult the municipality in regard to the proposed special rating referred to above. This committee may be elected by the inhabitants of the area concerned who are 18 years of age or older. The election of the committee must take place under the guidance of the Municipal Manager. The committee will serve in an advisory capacity only and will have no decision making powers.
- (4) The required consent of the relevant community must be obtained in writing or by means of a formal voting process chaired by the Municipal Manager. A majority is regarded as 50% plus one of the households affected. Every receiver of a monthly municipal account, will have 1 vote only.
- (5) In determining the special additional rates the municipality must differentiate between different categories as referred to in section 5.
- (6) The additional rates levied must be utilised for the purpose of improving or upgrading of the specific area only and not for any other purposes whatsoever.
- (7) The municipality must establish separate accounting and other record-keeping systems, for the identified area and the households concerned must be kept informed of progress with projects and financial implications on an annual basis.

## 16. Frequency of valuation

- (1) The municipality must prepare a new valuation roll every 4 (four) years.
- (2) The municipality, under exceptional circumstances, may request the MEC responsible for Local Government 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.

## 17. Community participation

- (1) Before the municipality adopts the rates by-law, the municipal manager will follow the process of community participation envisaged in chapter 4 of the Municipal Systems Act, 2000(Act No. 32 of 2000) and comply with the following requirements:
  - (a) Council must establish appropriate mechanisms, processes and procedures to enable the local community to participate and will provide for consultative sessions with locally recognised community organisations and where appropriate traditional authorities.
  - (b) Council must display the draft rates by-law for a period of at least 30 days (**municipality to include period decided on**) at the municipality's head and satellite offices and libraries (and on the website).
  - (c) Council must advertise in the media a notice stating that the draft rates by-law has been prepared for submission to council and that such by-law is available at the various municipal offices and on the website for public inspection.
  - (d) Property owners and interest persons may obtain a copy of the draft by-law from the municipal offices during office hours at a fee as determined by Council as part of its annual tariffs.
  - (e) Property owners and interest persons are invited to submit written comments or representations to the municipality within the specified period in the notice.
  - (f) The municipality will consider all comments and/or representations received when considering the finalisation of the rates by-law.
  - (g) The municipality will communicate the outcomes of the consultation process through appropriate mechanisms established by the Municipality in accordance with section 17 of the Local Government: Municipal Systems Act 32 (Act No. 32 of 2000).

## 18. 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 Property Rates Act, 2004 (Act No. 6 of 2004),
  - (b) Rebate or reduction in terms of section 15 of the Act,
  - (c) Phasing-in of rates in terms of section 21 of the Act, and
  - (d) Exclusions as referred to in section 17 of the Act.
- (4) The register will be open for inspection by the public at the municipal main offices during office hours or on the website of the municipality.
- (5) The municipality will update Part A of the register during the supplementary valuation process.
- (6) Part B of the register will be updated on an annual basis as part of the implementation of the municipality's annual budget.

## 19. Regular review processes

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 relevant legislation.

## 20. Short title

This by-law is called the Property Rates By-law, 2011.