



DRAKENSTEIN
MUNISIPALITEIT • MUNICIPALITY • UMASIPALE WASE

PROPERTY RATES POLICY

SEPTEMBER 2010

Formulated in terms of Section 3 of the Municipal Property Rates Act no6 of 2004

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DRAKENSTEIN MUNICIPALITY

LEGISLATIVE CONTEXT

- A. This policy is mandated by Section 3(1) of the Municipal Property Rates Act, No 6 of 2004, which specifically provides that a municipality must adopt a Rates Policy.
- B. In terms of Section 229 of the Constitution of the Republic of South Africa, Act 108 of 1996, a municipality may impose rates on property.
- C. In terms of the Municipal Property Rates Act, 2004 (No.6 of 2004) a municipality in accordance with: -
 - C1. Section 2(1) may levy a rate on property in its area; and
 - C2. Section 2(3) must exercise its power to levy a rate on property subject to: -
 - (i) Section 229 and any other applicable provisions of the Constitution
 - (ii) The provisions of the Property Rates Act
 - (iii) The rates policy
- D. Section 4(1)(c) of the Municipal Systems Act, 2000 (nr 32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing, inter alia rates on property.
- E. In terms of Section 62 (1)(f)(ii) of the Municipal Finance Management Act, 2003 (No.56 of 2003) the municipal manager must ensure that the municipality has and implements a rates policy.
- F. This policy must be read together with, and is subject to the stipulations of the Local Government: Municipal Property Rates Act, 2004(No.6 of 2004)

NOW THEREFORE the following policy on the levying of property tax is accepted.

1. OBJECTIVE

The objectives of this policy are to ensure that-

- all ratepayers within a specific category are treated equally and reasonably;
- rates are levied in accordance with the market value of the property;
- the rate will be based on the value of all rateable property and the amount required by Council to balance the operational budget, taking into account any surpluses generated from Council services and the amounts required to finance exemptions, reductions and rebates that the municipality may approve from time to time;
- to optimally safeguard the income base of the municipality only by approving exemptions, reductions and rebates that are reasonable and affordable.

2. DEFINITIONS

In this policy, unless the context indicates otherwise—

“Act” means the Local Government Municipal Property Rates Act, 2004 (Act No.6 of 2004);

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

“Business” means the activity of buying, selling or trading in goods or services and includes any office or other accommodation on the same erf, the use of which is incidental to such business, with the exclusion of agriculture, farming or, inter alia, any other business consisting of cultivation of soils, the gathering in of crops or the rearing of livestock or consisting of the propagation and harvesting of fish or other aquatic organisms;

“Conservation” means an area that is or has to be listed in the register referred to in section 10 of the National Environmental Management: Protected Areas Act 2003.

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

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

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

“Household Income” means the income accruing to all members of the household permanently residing at that address.

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

In terms of the Drakenstein Municipality policy, a private residential household can be registered or remain registered as indigent under all of the following circumstances:

1. If the total gross monthly income of all the members of the household does not exceed the joint pensions of 2 old age state pensioners,
2. If the applicant as well as any other member of the household does not own other fixed property than the one on which they reside,
3. If the improved municipal value of the property on which the household resides does not exceed the value as determined by Council from time to time,

"Industrial", in relation to property, means the use of a property for a branch of trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, including any office or other accommodation on the premises, the use of which is incidental to the use of the factory;

"MPRA" means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

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

"Multiple purposes", in relation to property, means the use of a property for more than one purposes and the property thus not being assigned to a single category of properties and, where one use represents on average 90% or more of the property's value, the property is rated as though it were used for that use only;

"Non-urban land" means land that is not situated in a proclaimed township, but that is used for residential or agricultural purposes or is not in use;

"Vacant land" means –

- (a) Land on which no immovable improvements have been erected; or
- (b) land where the value added by immovable improvements is less than 10% of the value of the land with no immovable improvements on it.

"Market value", in relation to a property, means the value of the property determined in accordance with section 39 of the Act;

"Permitted use", in relation to a property, means the limited purposes for which the property may be used in terms of –

- (a) any restrictions imposed by-
 - (i) a condition of title;
 - (ii) a provision of a town planning or land use scheme; or
 - (iii) any legislation applicable to any specific property or property;or
- (b) any alleviation of any such restrictions;

"Property" means-

- (a) immovable property registered in the name of a person, or 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 to a person in terms of legislation;

"Public Benefits Organisation" means an organisation conducting specified public benefit activities as defined in the Act and registered in terms of the Income Tax act for tax reductions because of those activities.

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

“State-owned properties” means properties owned by the State, which are not included in the definition of public service infrastructure in the Act. These properties are classified as follows:

- (a) State properties that provide local services
- (b) State properties that provide regional/municipal district-wide/metro-wide services.
- (c) State properties that provide a provincial/national service.

3. GUIDING PRINCIPLES

The following principles will ensure that the municipality treats persons liable for rates equitably:

- ▯ *Equity*
The municipality will treat ratepayers with similar properties in a like manner
- ▯ *Affordability*
The ability of a person to pay rates will be taken into account by the municipality. In dealing with the poor or indigent the municipality may provide relief measures through exemptions, reductions or rebates
- ▯ *Sustainability*
Rating of property will be implemented in a way that:
 - it supports sustainable local government by providing a stable revenue source within the discretionary control of the municipality and
 - it supports local and social economic development with consideration and compliance with the LED strategy of the municipality.

The Municipality may:-

- levy different rate tariffs on different categories of properties,
- exempt a specific category of property from payment of rates,
- grant a rebate on, or a reduction in the rate payment.

Council also pledges itself to limit each maximum annual increase, as far as is practicable, to the increase in the consumer price index except when the approved integrated development plan of Council requires a greater increase.

4 DETERMINATION OF CRITERIA FOR THE LEVING OF RATES

4.1 CATEGORIES OF PROPERTY

For the purposes of levying different rates based on the permitted used of properties in terms of S8 (1)(b), read with 3(3)(b) and 3(3)(c) of the Act.

Note: where the use of the property is other than the zoning the valuation will be determined accordingly.

- 01 – A: 1 Residential properties Build
- 2 Agricultural / multipurpose
- 3 Vacant

- 02 – C: 1 Industrial properties Build
- 2 Use other than / multipurpose
- 3 Vacant

- 03 – B: 1 Business and commercial properties
- 2 Use other than / multipurpose
- 3 Vacant

- 04 - F: 1 Properties used for Government purposes
- 2 Use other than / multipurpose
- 3 Vacant

- 05 - E: 1 Properties used for Municipal purposes
- 2 Use other than
- 3 Vacant

- 06 - D: 1 Agricultural properties
- 2 Use other than / multipurpose
- 3 Vacant

- 07 - H: 1 Properties used for Educational purposes
- 2 Use other than /multipurpose
- 3 Vacant

- 08 - G: 1 Properties used for Religious purposes Churches
- 2 Use other than / multipurpose
- 3 Vacant

- 09 - O: 1 Railways
- 2 Use other than / multipurpose
- 3 Vacant

- 10 – A: 1 Geographical areas (Paarl Valley, Val de Vie & Boschenmeer)
- 2 Use other than / multipurpose
- 3 Vacant

- 11 - K: 1 Conservation areas
 - 2 Use other than / multipurpose
 - 3 Vacant

- 12 - Multipurpose

4.2 DETERMINATION OF DIFFERENTIAL RATE TARIFFS

The following has been taken into consideration in determining differential rate tariffs:

- The use of the property.
- The permitted use of the property.
- The geographical area where the property is situated.
- The nature of the property including the impact of rates on its operations eg agricultural properties used for farming purposes.
- The promotion of social and economic development of the municipality.

4.3 LIABILITY FOR RATES

(1) Annual Payment Arrangements

Drakenstein Municipality will recover the rates levied in a single amount, which is due on or before 30 September of the year in which it is levied.

(2) Method and time of payment

The Municipality shall as part of each annual operating budget determine a rate in the rand for every category. Rates are levied in accordance with the MPRA as an amount in the Rand based on the market value of all rateable property as reflected in the valuation roll and any supplementary valuation roll. By prior arrangement Drakenstein Municipality will recover the rates levied in periodic instalments of equal amounts over twelve months. The instalment is payable on or before the due date of every month, following the month in which it has been levied. Interest will be charged at the prime interest rate for any late payments received. Applications must be submitted before 31 May for this option however the Director: Finance may consider any applications after this date on merit.

(3) Recovery of arrear rates from tenants, occupiers and agents

If an amount due for rates levied in respect of a property is unpaid after the day determined, the municipality may recover the amount in whole or in part from a tenant or occupier of the property (As per, Section 28 of the Property Rates Act Nr. 6, 2004). The amount the municipality might recover from the tenant or occupier of the property is limited to the amount of the rent or other money due and payable by the tenant or occupier to the owner of the property. Any amount the municipality recovers from the tenant or occupier of

the property may be set off, by the tenant or occupier, against any monies owed by the tenant or occupier to the owner.

The municipality may recover the amount due for rates from an agent of the owner after it has given written notice to that agent or tenant/occupier. The amount the municipality may recover from the agent or other person is limited to the amount of rent received by the agent or person, less the commission due to that agent or person, subject to the Estate Agents Act, 1976 (Act No. 112 of 1976). The agent or other person must, on request by the municipality, furnish the municipality with a written statement specifying all payments for rent on the property received by that agent or person during a period determined by the municipality.

(4) Ownership

Properties, which vest in the municipality during developments, i.e. open spaces and roads, will be transferred at the cost of the developer to the municipality. Until such time, rates levied will be for the account of the developer.

(5) Supplementary Valuation Debits

5.1 A Municipality must whenever necessary, cause a supplementary valuation to be made in respect of any rateable property -

- a) Incorrectly omitted from the valuation roll;
- b) Included in a municipality after the last general valuation;
- c) Subdivided or consolidated after the last general valuation;
- d) Of which the market value has substantially increased or decreased for any reason after the last general valuation;
- e) Substantially incorrectly valued during the last valuation; or
- f) That must be revalued for any other exceptional reason

5.2 Rates on a property, based on the valuation of that property in a supplementary valuation roll become payable with effect from –

- a) The effective date of the supplementary roll, in the case of a property referred to in, 5.1 a, e or f.
- b) The date on which the property was included in the municipality, in the case of a property referred to in 5.1b.
- c) The date on which the subdivision or consolidation of the property was registered in the Deeds Office, in the case of a property referred to in 5.1 (c); or
- d) The date on which the event referred to in subsection 5.1(d) has occurred.

5.3 In the event that a property has been transferred to a new owner and rates emanating from a supplementary valuation become due and payable, the previous owner as well as the new owner will be held jointly and separately responsible for the settlement of the interim rates account.

(6) Developments

The developer of a property will be liable for all rates raised on the development until the individual units are transferred to the new owners including properties which must be transferred to the municipality in terms of the land use ordinance and development agreement.

(7) Clearance Certificate

Rates Clearance Certificates will be valid for 60 days (Section 118, Municipal Systems Act No. 32 of 2000) if monies have been paid in full until such date. However, should attorneys request to extend the certificate for 60 days beyond this date, and this extension of time surpasses the date of 30 June, the new year's rates become payable in full.

(8) Levying of rates on property in sectional title schemes

A rate on property, which is subject to a sectional title scheme, will be levied on the individual sectional title units in the scheme.

5. EXEMPTIONS, REBATES AND REDUCTIONS:

The following conditions will be taken into consideration for the purpose of granting exemptions, rebates and reductions:

- Indigent status of the owner of a property.
- Nature and source of income of the owner of a property. (eg pensions & social grants)
- Market value of residential property below a determined threshold.
- The need to preserve the cultural heritage of the local community
- The services provided to the community by public service organisations. **(Non-profitable organisations)**
- The requirements of the Property Rates Act no 6 of 2004.

5.1 EXEMPTIONS

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

- (a) Any rateable property registered in the name of a welfare organisation registered in terms of the National Welfare Act, 1978 (Act 100 of 1978);
- (b) Any hospital, clinic or institution for mentally ill persons that is operated not with the intention to make profit;
- (c) Any rateable property registered in the name of a public benefit organisation that carries out specified public benefit activities;

- (d) Any cemetery or crematorium that is registered in the name of a private person and that is used exclusively for burials or cremations, as the case may be;
- (e) Any museum, art gallery, library or botanical garden that is registered in the name of a private person and that is open to the public, whether admission is charged or not;
- (f) Any national monument, excluding any ancillary profitable business activity conducted at a national monument;
- (g) Any rateable property registered in the name of a trustee or trustees or any organisation that is being maintained for the welfare of war veterans as defined in section 1 of the Social Assistance Act, 1992 (59/1992), and their families;
- (h) Any sports grounds used for the purposes of amateur sport or any social activity connected with such sport; (refer to 5.3.6)
- (i) Any rateable property registered in the name of the Boy Scouts, Girl Guides, Sea Scouts, Voortrekkers or any organisation that is, in the opinion of the Municipality, similar or any rateable property let by the Municipality to any such organisation;
- (j) Any rateable property registered in the name of a declared institution as defined in section 1 of the Cultural Institutions Act, 1998 (119/1998).
- (k) Any residential property that is occupied by the owner of the property and has a value below an amount to be determined during the budget process.
- (l) Any property on or under which public service infrastructure is erected;
- (m) Churches and places of worshipping (must be used exclusively for religious services, vacant land excluded)
- (n) Vacant land earmarked for sub-economical housing with a value up to an amount determined by Council from time to time.
- (o) The first R15 000 of the market value of property assigned for residential purposes or properties used for multi purposes, provided one or more of the components are used for residential purposes. (excluding (p) below)
- (p) Properties assigned for residential purposes owned by registered indigent ratepayers with a value of **R150 000** and less.
- (q) Land Reform Beneficiaries; property belonging to a land reform beneficiary or his/her heir is exempt from rates for ten (10) years from the date on which the beneficiaries title was registered in the Deeds Office refer to Section 17 (g) (provided the property does not change hands)
- (r) any private school

- (s) those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004, which are not developed or used for commercial, business, agricultural or residential purposes;

The exemption in (a) to (m) and (q) and (r) will be granted after an application has been received.

5.2 CRITERIA FOR GRANTING REBATES AND EXEMPTIONS

5.2.1 PUBLIC BENEFIT ORGANISATIONS

Taking into account the effects of rates on Public Benefit Organisations performing a specific public benefit activity and registered in terms of the Income Tax Act for tax reduction because of those activities, it is proposed that Public Benefit Organisations (PBOs) performing the following specified public benefits activities be exempted from paying Property Rates.

- Welfare and humanitarian, such as providing disaster relief.
- Health Care, such as the counselling, care and treatment of persons (and their dependants) afflicted with HIV and AIDS

5.2.2 PUBLIC SERVICE INFRASTRUCTURE

All public service infrastructure providing essential services to the community shall be exempted from the payment of rates.

5.2.3 MULTIPURPOSE

Multipurpose properties will be rated in terms of the criteria as prescribed and shall receive the rebate applicable to such components.

5.2.4 STATE PROPERTIES

State properties (e.g. Schools, clinics, hospitals, police stations etc.) will be granted a 20% rebate of the calculated rate.

5.2.5 RELIGIOUS ORGANISATIONS

The official residence registered in the name of a religious community and occupied by a full time office bearer shall be exempt from rates.

5.2.6 SPORT PUPOSES (refer to 5. (h))

- (a) Land not earmarked for development (Gholf Greens etc): 75% rebate of Residential Rates tariff.

- (b) Land with improvement on separate erven of (a) above: (clubhouses etc) – 25% rebate of Residential Rates tariff.

5.2.7 SOCIAL GRANTS

Any exemption in respect of a person referred to in this section will be granted in a manner which does not unfairly discriminate and subject to the following condition.

Any person who -

- (i) has reached the age of 60 years or more during the financial year (pensioners);
- (ii) is physically or mentally disabled and can prove that he or she receives a social pension; or
- (iii) is certified by a district medical officer of district medical officers, as the case may be, as being physically or mentally handicapped, in accordance with the provisions of Section 75(2) of the Municipal Systems Act, subject to the following conditions:
 - (a) the rateable property in question may be occupied only by that person and his or her spouse, if any, and by dependants of that person who have no income, or by other people due to circumstances that are in the opinion of the Municipality's Chief Financial Officer specific;
 - (b) there may not be more than two dwelling-units on the rateable property in question;
 - (c) the applicant must submit proof of his or her age and identity and, in the case of a physically or mentally handicapped person, also proof that he or she receives a social pension or, if he or she does not receive a social pension, proof of certification by a district medical officer or district medical officers, as the case may be;
 - (d) that person's current services account must be paid in full; and
 - (e) the rateable property in question must be categorised as residential;
 - (f) The applicant must be the registered owner of the Property.
 - (g) A 50% rebate on rates to all pensioners with a monthly income of R2 160 +75% = R3 780 or less (Depends on Increase of National Governmental Pension Grant)
 - (h) The rates rebate will be granted from the date of application.

5.2.8 INDIGENT HOUSEHOLDS

A 100 % discount will granted to all indigent households, in relation to a valuation assigned to a residential property with a value of **R150 000** and less.

5.2.9 CIRCUMSTANCES IN WHICH THE GRANT WILL LAPSE

- a) Upon the death of the owner, except where the property concerned has been inherited by and occupied by the surviving spouse

- b) Upon the expropriation, sale or the disposal of the property
- c) Upon the applicant ceasing to reside permanently on the property concerned.
- d) Upon the providing of fraudulent information.

6. LOCAL, SOCIAL AND ECONOMIC DEVELOPMENT

The municipality may grant rebates to organisations that promote local, social and economic development based on the criteria determined in its local, social and economic development policy(s). The following criteria will apply:

- (a) job creation in the municipal area;
- (b) social upliftment of the local community; and
- (c) creation of infrastructure for the benefit of the community

7. CRITERIA, APPLIED FOR THE DETERMINATION OF DIFFERENT RATES IN RESPECT OF PROPERTIES USE FOR AGRICULTURAL PURPOSES

- 7.1 Agricultural holdings are rated according to the actual use thereof. Owners must meet the following conditions in order to qualify as bona fide farmers (S15 (2) F)
 - 7.1.2 the property must be zoned for agriculture and used predominantly for bona fide agricultural purposes;
 - 7.1.3 the owner must be taxed by the South African Revenue Services as a farmer;
 - 7.1.4 application for a rebate must be made, on a form prescribed by Council, accompanied by an affidavit that all information contained in the application is true and correct
 - 7.1.5 if the permitted used of a property in this category changes during a financial year, any rebate is forfeited from the date of approval by the Council of such change.
 - 7.1.6 the differential rate will be calculated as follows:
(25 % of the Domestic/Household Tariff)

8. RATES NOT TO BE LEVIED ON RATEABLE PROPERTY

- 8.1 Properties of which the Municipality is the owner
- 8.2 Public service infrastructure owned by the Municipality
- 8.3 Properties in respect of which it is impossible or unreasonable difficult to establish a market value, because of legally insecure tenure resulting from past racially, discriminatory Laws or practices

9. CRITERIA FOR INCREASING OF RATE TARIFFS

The following will be taken into account for the purpose of increasing/decreasing rates:

- Priorities of a municipality reflected in its Integrated Development Plan.
- The revenue needs of the municipality.
- Affordability of rates to ratepayers.

The municipality will consider the imposition of rates annually during the budget process in determining tariffs for the next financial year

All increases in property rates will be communicated to the community in terms of Section 21 A of the Municipal Systems Act (Act no. 32 of 2000).

10. REDUCTIONS IN MARKET VALUES

- 1) A reduction in the municipal valuation as contemplated in section 15 (2) (d)(i) of the Act, may be granted where the value of a property is affected by fire damage, demolition or flood.
- 2) The reduction will be granted by the Director: Finance only after a valuer has carried out an inspection of the property concerned.

11. COSTS OF EXEMPTIONS, REBATES AND REDUCTIONS

- 1) During the budget process the Chief Financial Officer must inform Council of all costs associated with exemptions, rebates and reductions of rates
- 2) Provision must be made in the operating expenditure budget for:
 - a) the full potential income associated with property rates; and
 - b) The full costs associated with exemptions, rebates and reductions of rates.

12. ANNUAL ADOPTION OF THE POLICY

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

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

13. REGISTER OF PROPERTIES

The Chief Financial Officer must draw up and maintain a register of properties as contemplated as section 23 of the Act.

14. NOTIFICATION OF RATES

- (1) Council will give notice of all rates approved at least 30 days prior to the date that the rates become effective. Accounts delivered after the 30 days notice will be based on the new rates.
- (2) A notice stating the purport of the Council resolution, date on which the new rates shall become operational will be displayed by the municipality at places installed for that purpose.

15. CORRECTION OF ERRORS AND OMISSIONS

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 shall 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. In addition, 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 shall be levied at the maximum rate permitted by prevailing legislation.

16. FREQUENCY OF VALUATIONS

The municipality shall prepare a new valuation roll from time to time and a supplementary valuation roll at least once a year.

17. SHORT TITLE

This policy is the Property Rates Policy of the Drakenstein Municipality.

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

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

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

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

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

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

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