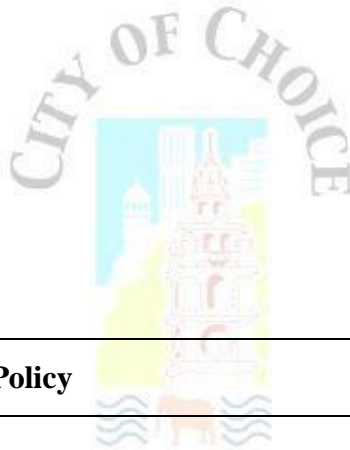
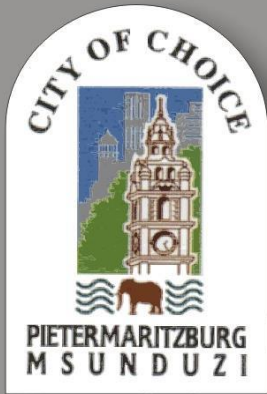


**MSUNDUZI MUNICIPALITY**



<b>Policy Name:</b>	<b>Rates Policy</b>
<b>Policy Number:</b>	
<b>Status:</b>	DRAFT
<b>Date:</b>	January 2021
<b>Approved By:</b>	
<b>Date Approved:</b>	
<b>Last Amended:</b>	March 2020
<b>Next Review:</b>	March 2022



# **The Msunduzi Municipality**

**DRAFT**

**Rates Policy**

**2021/2022**

## TABLE OF CONTENTS

Section	Details	Page
1.	Definitions	3
2.	Adoption and Contents of a Rates Policy	10
3.	Community Participation	10
4.	Annual Review of Rates Policy	10
5.	Levying of Rates	10
6.	Differential Rates	11
7.	Impermissible Differentiation	11
8.	Properties Used for Multiple Purposes	12
9.	Levying of Property Rates on Sectional Title Schemes	12
10.	Amount Due for Rates	12
11.	Period for which Rates May Be Levied	13
12.	Commencement of Rates	13
13.	Promulgation of Resolutions Levying Rates	13
14.	Exemptions, Reductions and Rebates	14
15.	Categories of Property	14
16.	Constitutionally Impermissible Rates	15
17.	Other Impermissible Rates	16
18.	Exemption of Municipalities From Provisions of Section 17	18
19.	Criteria For Qualification of Specified Categories of Property	18
20.	Limits of Annual Increases	21
21.	Rebates Per Category of Owner	22
22.	Criteria for Qualification of Categories of Owners of Property	23
23.	Additional Rates for Special Rating Areas	26
24.	Register of Properties	28
25.	Property Rates Payable by Owners	28
26.	Payment of Rates On Property In Sectional Title Schemes	29
27.	Method and Time of Payment	29
28.	Accounts to be Furnished	30
29.	Recovery of Arrear Rates	32
30.	Interest and Collection Charges	33
31.	Restraint on the Transfer of Property and Revenue Clearance Certificates	33
32.	Date of Valuation	35
33.	Supplementary Valuations and Interim Rates Adjustments	35
34.	By Laws to be Adopted	37
35.	Enforcement of Other Legislation	37

## 1. **DEFINITIONS**

In this document and in addition to the definitions in the act, and unless the context indicates otherwise –

- 1.1 **"agricultural property"** means a property that is used for financial gain for the purpose of
- 1.1.1 the cultivation of soils for purposes of planting and gathering of crops;
  - 1.1.2 forestry in the context of the planting or growing of trees in a managed and structured fashion;
  - 1.1.3 the rearing of livestock and game or the propagation and harvesting of fish;
- but excludes**
- 1.1.4 the use of a property for the purpose of eco-tourism; or
  - 1.1.5 for the trading in or hunting of game, reared or traded for the purposes of racing for financial gain; or for hospitality of guests for gain; and
  - 1.1.6 in respect of property on which game is reared, traded or hunted; and
  - 1.1.7 it excludes any property where any portion is used for the hospitality of guests for gain;
- 1.2 **"business" or "commercial property"** means – property used for the buying, selling or trading in commodities, goods or services and includes any office accommodation or facility on the same property, the use of which is incidental to such activity;
- 1.3 **"category"** –
- 1.3.1 in relation to property, means a category of properties determined in terms of section 8 of the Act; and
  - 1.3.2 in relation to owners of properties, means a category of owners determined in terms of section 15(2) of the Act;
- 1.4 **"child headed household"** means a household where both parents are deceased and where all occupants of the property are children of the deceased and are all under the legal age to contract for services and are considered as minors in law by the state;
- 1.5 **"collection charges"** means a penalty raised as provided for in Section 75A 1 (b) of the Local Government: Municipal Systems Act 2000 (Act No. 6 of 2000);
- 1.6 **"developer"** means an owner who purchases raw land and installs the necessary infrastructure for the purposes of providing services for development of the land for residential, industrial or commercial purposes;

1.7 **"effective date"**-

1.7.1 in relation to a valuation roll, means the date on which the valuation roll takes effect in terms of section 32(1) of the Act; or

1.7.2 in relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of section 78(2)(b) of the Act;

1.8 **"financial year"** means the period starting from 1 July in a year to 30 June the following year;

1.9 **"gross monthly income of the household"** means the combined income including all salaries, wages, dividends, pensions, disability grants, rentals, board and lodging, interest received, and any investment income of every member of the household from all sources;

1.10 **"impermissible rates property"** means all properties contained in the valuation roll that are not permitted to be rated in terms of Section 17 (e), (g) and (i) of the Act and comprises places of worship, land beneficiaries and protected areas as declared by the Department of Environmental Affairs;

1.11 **"industrial property"** means property used for the trading in, the manufacturing and production of good and products or the assembly or processing of finished products from raw materials or fabricated parts in respect of which capital and labour are utilised, and includes any office or other facility on the same property, the use of which is incidental to such activity;

1.12 **"land reform beneficiary"**, in relation to a property, means a person who-

1.12.1 acquired the property through-

1.12.1.1 the Provision of Land and Assistance Act, 1993 (Act NO.126 of 1993); or

1.12.1.2 the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994)

1.12.2 holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or

1.12.3 holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to section 25(6) and (7) of the Constitution be enacted after this Act has taken effect;

1.13 **"land tenure right"** means a land tenure right as defined in section 1 of Upgrading of Land Tenure Rights Act 1991 (Act 112 of 1991);

1.14 **"market value"** in relation to a property, means the value of the property determined in accordance with section 46 of the Act;

1.15 **"mining"** means a property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

- 1.16 **"Minister"** means the Cabinet member responsible for local government;
- 1.17 **"MPRA"** means Local Government: Municipal Property Rates Act, No.6 of 2004;
- 1.18 **"MPRA Rates Ratio Regulations"** means the Municipal Property Rates Regulations on the Rate Ratio between Residential and Non-Residential Properties promulgated in terms of the MPRA;
- 1.19 **"multiple purposes"** means a property used for more than one purpose and that cannot be assigned to an existing category of property;
- 1.20 **"municipal property"** means a property registered in the name of and occupied by the Msunduzi Municipality and includes all municipal property which by its nature cannot be occupied;
- 1.21 **"newly rateable property"** means any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding-
- 1.21.1 a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and
- 1.21.2 a property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified;
- 1.22 **"occupier"** means any person who occupies any property or part thereof, without regard to the title under which he/she occupies the property;
- 1.23 **"office bearer"** in relation to places of public worship, means the primary person who officiates at services at that place of worship;
- 1.24 **"official residence"** in relation to places of public worship, means-
- 1.24.1 a portion of the property used for residential purposes: or
- 1.24.2 one residential property, if the residential property is not located on the same property as the place of public 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;"
- 1.25 **"owner"**-
- 1.25.1 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;

- 1.25.2 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;
- (i) in relation to a time sharing interest contemplated in the Property Time-sharing Control Act, 1983 (Act No. 75 of 1983), means the management association contemplated in the regulations made in terms of section 12 of the Property Time-sharing Control Act, 1983, and published in Government Notice R327 of 24 February 1984;
- (ii) *in relation to a share block company*, the share block company as defined in the Share Block Control Act, 1980 (Act No. 59 of 1980); *(Added by s1 of Act 29 of 2014)*;
- (iii) in relation to buildings, other immovable structures and infrastructure referred to in section 17(1)(f), means the holder of the mining right or the mining permit; and *(Added by s1 of Act 29 of 2014)*;
- 1.25.3 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
- 1.25.4 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 of "publicly controlled", provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:
- 1.25.4.1 A trustee, in the case of a property in a trust excluding state trust land;
- 1.25.4.2 an executor or administrator, in the case of a property in a deceased estate;
- 1.25.4.3 a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- 1.25.4.4 a judicial manager, in the case of a property in the estate of a person under judicial management;
- 1.25.4.5 a curator, in the case of a property in the estate of a person under curatorship;
- 1.25.4.6 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;
- 1.25.4.7 a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or

- 1.25.4.7(a) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right; or
- 1.25.4.8 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;
- 1.26 **“pending ratepayer”** means a purchaser of a property whose conveyancer has applied for a revenue clearance certificate, and who will become the registered owner of the property as per 1.25 above within 60 days of the issue of that certificate;
- 1.27 **“permitted use”** in relation to a property, means the limited purposes for which the property may be used in terms of –
- 1.27.1 any restrictions imposed by-
- 1.27.1.1 a condition of title
- 1.27.1.2 a provision of a town planning or land use scheme; or
- 1.27.1.3 any legislation applicable to any specific property or properties; or
- 1.27.2 any alleviation of any such restrictions; "person" includes an organ of state;
- 1.28 **“places of 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-
- 1.28.1 registered in the name of a religious community;
- 1.28.2 registered in the name of a trust established for the sole benefit of a religious community; or
- 1.28.3 object to a land tenure right;
- 1.29 **“primarily”** means - for the purpose of determining the use and category of a property, both the floor area and time periods used shall be considered in concluding same;
- 1.30 **“property”** means-
- 1.30.1 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;
- 1.30.2 a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- 1.30.3 a land tenure right registered in the name of a person or granted to a person in terms of legislation; or



- 1.30.4 public service infrastructure;
- 1.31 “**protected area**” means an area that is or has to be listed in the register referred to in 10 of the National Environmental Management; Protected Areas Act, 2003;
- 1.32 “**public benefit organisation property**” means any property owned by a public benefit organisation and used for any specified public benefit activity listed in part 1 of the ninth Schedule to the Income Tax Act excluding Items 3 and 5 being land and housing, and places of worship where rebates, reductions and exemptions have already been considered under impermissible rates. Ratios published by the minister for items 1, 2 and 4 of the schedule must not exceed those published by the minister from time to time;
- 1.33 “**public service infrastructure**” means publicly controlled infrastructure of the following kinds:
- 1.33.1 national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
  - 1.33.2 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;
  - 1.33.3 owner stations, power substations or power lines forming part of an electricity scheme serving the public;
  - 1.33.4 gas or liquid fuel plants or refineries or pipelines of liquid gas fuels, forming part of a scheme for transporting such fuels;
  - 1.33.5 railway lines forming part of a national railway system;
  - 1.33.6 communication towers, masts exchanges or lines forming part of a communications systems serving the public;
  - 1.33.7 runways aprons and air traffic control unit at national or provincial airports including the vacant land known as the obstacle free zone surrounding these, which must be vacant for navigation purposes;
  - 1.33.8 any other publicly controlled infrastructure as may be prescribed; or
  - 1.33.9 a right registered against immovable property in connection with infrastructure mentioned in paragraphs 1.22.1 to 1.22.8;
- 1.34 “**public service purpose**”, in relation to the use of a property., means a property owned and used by an organ of state as –
- a) hospitals or clinics;
  - b) schools, pre-schools, early childhood development centers 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'.
- 1.35 **“rate randage”** means the cents in the rand that is set as the tariff for each category for the levying of rates;
- 1.36 **“ratio”** in relation to section 19.1.2 of this policy, means the relationship between the rate randage applicable to residential properties and different categories of non-residential properties, provided that the comparable rate randages are inclusive of any relief measures that amount to rebates of a general application to all properties within a property category;
- 1.37 **“residential property”** means a property included in the valuation roll as residential and used exclusively for domestic residential purposes, and includes bulk residential properties identified by the municipality, and where there is an approved Surveyor General Plan, Township Layout or approved general diagram, may be separately valued and rated, notwithstanding the non-registration of any sub-divisions;
- 1.38 **“rural communal property”** means agricultural or township property where there is a single cadastral holding developed predominantly for residential purposes and/or traditional rural homesteads, and which may also have a variety of non-residential structures which collectively constitute the minority in terms of measured building area, including property belonging to the Ingonyama Trust Board and property belonging to a land reform beneficiary, where the dominant use is residential rather than commercial agricultural;
- 1.39 **“sectional title garages”** means any garage within a residential sectional title scheme that has been registered as a separate sectional title unit;
- 1.40 **“specialised property”** means any non-commercial or non-residential property that cannot be categorised in any other existing category of property due to its specialised nature and/or function and use e.g., cemetery or stream
- 1.41 **“the Act”** means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), and any amendments thereto;
- 1.42 **“unauthorised use property”**– means any property or part thereof used in conflict with the permitted use of such property as provided for in any applicable Town Planning Scheme or other relevant legislation and any property or part thereof developed or improved contrary to the provisions of National Building Regulations and Building Standards Act 103 of 1977, the Planning and Development Act (Kwazulu Natal) 6 of 2008 or any other relevant legislation;

1.43 “**vacant land**” means any undeveloped land as listed in the valuation roll and includes bulk land identified by the municipality and where there is an approved Surveyor General Plan, Township Layout or approved general diagram, may be separately valued and rated, notwithstanding the non-registration of any sub-divisions.

## **2 ADOPTION AND CONTENTS OF RATES POLICY**

2.1 The Municipality shall adopt a rates policy in terms of which all rateable properties within its area of jurisdiction are rated.

2.2 The rates policy shall take effect on the effective date of the first valuation roll prepared by the Municipality under the Act, and shall accompany the Municipality's budget for the financial

year concerned when the budget is tabled in terms of section 16(2) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).

## **3 COMMUNITY PARTICIPATION**

Before the Municipality adopts or amends its rates policy it shall follow a process of community participation in accordance with Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and section 4 and 5 of the Act.”

## **4 ANNUAL REVIEW OF RATES POLICY**

4.1 A municipal council must annually review, and if necessary, amend its rates policy. Any amendments to a rates policy must accompany the municipality's annual budget when it is tabled in the council in terms of section 16 (2) of the Municipal Finance Management Act.

4.2 Section 3(3) to (6) of the Act, read with the necessary changes as the context may require, apply to any amendment of a rates policy. Community participation in amendments to a rates policy must be effected through the municipality's annual budget process in terms of sections 22 and 23 of the Municipal Finance Management Act.

## **5 LEVYING OF RATES**

5.1 The Municipality shall levy rates on all rateable property within its area, provided that it may, by resolution, grant exemptions from, rebates on or reductions in, rates levied in terms of this policy or in terms of a national framework prescribed under the Act.

- 5.2 In levying rates on property the Municipality is not obliged to levy rates on
- 5.2.1 (i) properties of which it is the owner;
  - (ii) public service infrastructure; or
  - (iii) on properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racially discriminatory laws or practices;
- 5.2.2 The municipality will not levy a rate on any municipal owned roads, streams or other municipal property where the market value of the property is equal to or less than R 10 000 or such other amount as determined by Council from time to time, provided that there is no occupant on the property;
- 5.3 A municipality must exercise its power to levy a rate on property subject to-
- 5.3.1 section 229 and any other applicable provisions of the Constitution;
  - 5.3.2 the provisions of this Act; and
  - 5.3.3 the rates policy it must adopt in terms of section 3 of the Act.

## 6 **DIFFERENTIAL RATES**

The Municipality shall be entitled to levy different rates for different categories of rateable property, which may include categories determined according to the

- 6.1 use of the property;
- 6.2 the permitted use of the property;
- 6.3 a combination of 6.1 and 6.2.

## 7 **IMPERMISSIBLE DIFFERENTIATION**

The Municipality may not levy -

- 7.1 different rates on residential properties, except as provided for in sections 11(2) [uniform fixed amount for rates], 21 [phasing in of rates] and 89A [use of existing valuation roll/supplementary roll] of the Act: Provided that this paragraph does not apply to residential property which is vacant;
- 7.2 a rate on a category of non-residential properties that exceeds a prescribed ratio to the rate on residential properties determined in terms of section 11 (1)(a) [on the market value of the property] of the Act: Provided that different ratios may be set in respect of different categories of non-residential properties;
- 7.3 rates which unreasonably discriminate between categories of non-residential properties;

- 7.4 additional rates except as provided for in section 22 [special rating areas] of the Act;
- 7.5 The ratio referred to in subsection 6.2 may be subject to prescribed norms and standards, and may only be prescribed with the concurrence of the Minister of Finance.

## **8 PROPERTIES USED FOR MULTIPLE PURPOSES**

- 8.1 A property used for multiple purposes and where there is not a separate rating category in terms of Section 8 of the Act, shall, for rates purposes, be assigned to a category determined by the Municipality and used for multiple purposes in terms of section 8 (2) (i) of the Act;
- 8.2 A rate levied on a property assigned in terms of subsection (8.1) to a category of properties used for multiple purposes must be determined by-
- 8.2.1 apportioning the market value of the property, in a manner as may be prescribed, to the different purposes for which the property is used; and
- 8.2.2 applying the rates applicable to the categories determined by the municipality for properties used for those purposes to the different market value apportionments.

## **9 LEVYING OF PROPERTY RATES ON SECTIONAL TITLE SCHEMES**

- 9.1 A rate on property which is subject to a sectional title scheme shall be levied on the individual sectional title units in the scheme and not on the property as a whole.
- 9.2 Unregistered units shall form part of the Developers rights or the holder of such rights;
- 9.2.1 the Municipality may value real rights of extension, the owner of which shall be the holder of such right and shall be rated in accordance with the vacant land rate;
- 9.2.2 where a developer pursues a phased development, the bulk land shall be valued in accordance with 9.2.1 above;
- 9.2.3 where rights are being traded, the rights shall be included in the valuation roll.

## **10 AMOUNT DUE FOR RATES**

- 10.1 The rate levied by the Municipality shall be an amount in the Rand on the market value of the property.
- 10.2 The Municipality acknowledges that the Minister may from time to time increase the monetary threshold referred to in section 17 (i) h of the Act, to reflect inflation.

## 11 **PERIOD FOR WHICH RATES MAY BE LEVIED**

- 11.1 The Municipality shall levy rates for one financial year at a time. At the end of each financial year the rate levied for that financial year shall lapse. The rate randage approved by Full Council for the following financial year shall apply from the start of that financial year.
- 11.2 The Municipality shall, annually, at the time of its budget, set the amount in the Rand for rates.
- 11.3 The levying of rates shall form part of the Municipality's annual budget process as set out in Chapter 4 of the Local Government: Municipal Finance Management Act, (Act No. 56 of 2003).

## 12 **COMMENCEMENT OF RATES**

Rates levied by the Municipality shall become due and payable as from the start of the financial year.

## 13 **PROMULGATION OF RESOLUTIONS LEVYING RATES**

- 13.1 A rate is levied by a municipality by resolution passed by the municipal council with a supporting vote of a majority of its members.
- 13.2 A resolution levying rates in a municipality must be annually promulgated within 60 days from the date of the resolution, by publishing the resolution in the Provincial Gazette.

The resolution must-

- (i) contain the date on which the resolution levying rates was passed;
- (ii) differentiate between categories of properties; and
- (iii) reflect the cent amount in the Rand rate for each category of property.

- 13.3 Whenever a municipality passes a resolution in terms of subsection (14.1), the municipal manager must, without delay-

13.3.1 conspicuously display the resolution for a period of at least 30 days-

- (i) at the municipality's head and satellite offices and libraries; and
- (ii) if the municipality has an official website or a website available to it as envisaged in section 21B of the Municipal Systems Act, on that website; and

13.3.2 advertise in the media a notice stating that-

- (i) a resolution levying a rate on property has been passed by the council; and

- (ii) the resolution is available at the municipality's head and satellite offices and libraries for public inspection during office hours and, if the municipality has an official website or a website available to it, that the resolution is also available on that website.

## 14 **EXEMPTIONS, REDUCTIONS AND REBATES**

14.1 The Municipality shall not grant relief in respect of the payment of rates other than by way of exemption, rebate or reduction, nor shall it grant such relief to the owner of a property on an individual basis.

14.2 The municipal manager must annually table in the council of the municipality a-

14.2.1 list of all exemptions, rebates and reductions granted by the municipality in terms of subsection during the previous financial year; and

14.2.2 statement reflecting the income for the municipality foregone during the previous financial year by way of -

- (i) such exemptions, rebates and reductions;
- (ii) exclusions referred to in section 17(1)(a), (e), (g), (h) and (i) of the Act; and the phasing-in discount granted in terms of section 21 of the Act.

14.3 The Council shall identify, and provide reasons for, exemptions, rebates and reductions when the annual budget is tabled in terms of section 16(2) of the Local Government: Municipal Finance Management Act, 2003.

## 15 **CATEGORIES OF PROPERTIES**

The Council may, by resolution, grant exemptions, reductions and rebates on the following categories of properties –

- 15.1 agricultural property subject to an approved application each General Valuation cycle;
- 15.2 business and commercial property;
- 15.3 impermissible rates property subject to an approved application each General Valuation cycle;
- 15.4 industrial property;
- 15.5 mining property;
- 15.6 multi- purpose property;
- 15.7 public benefit organisation property; subject to an approved application each General Valuation cycle;
- 15.8 public service infrastructure property;
- 15.9 public service purpose

- 15.10 residential property;
- 15.11 rural communal property;
- 15.12 sectional title garages (separately registered) property;
- 15.13 specific use properties
- 15.14 unauthorised use property;
- 15.15 vacant land property; and

Council reserves the right to request a written application either annually or per general valuation cycle to qualify for rebates, reductions or exemptions in any category of property.

## 16 **CONSTITUTIONALLY IMPERMISSIBLE RATES**

16.1 In terms of section 229(2) (a) of the Constitution, a municipality may not exercise its power to levy rates on property in a way that would materially and unreasonably prejudice-

16.1.1 national economic policies;

16.1.2 economic activities across its boundaries; or

16.1.3 the national mobility of goods, services, capital or labour.

16.2.1 If a rate on a specific category of properties, or a rate on a specific category of properties above a specific amount in the Rand, is materially and unreasonably prejudicing any of the matters listed in subsection (1), the Minister, [after notifying] with the concurrence of the Minister of Finance, must, by notice in the Gazette, give notice to the relevant municipality or municipalities that the rate must be limited to an amount in the Rand specified in the notice.

16.2.2 A municipality affected by a notice referred to in paragraph (16.2.1) must give effect to the notice and, if necessary, adjust its budget for the next financial year accordingly, the effective date of which must be from the date determined by the Minister in the notice.

16.3.1 Any sector of the economy, after consulting the relevant municipality or municipalities, and organised local government, may, through its organised structures, request the Minister to evaluate evidence to the effect that a rate on any specific category of properties, or a rate on any specific category of properties above a specific amount in the Rand, is materially and unreasonably prejudicing any of the matters listed in subsection (16.1).

16.3.2 If the Minister is convinced by the evidence referred to in paragraph (a) that a rate on any specific category of properties, or a rate on any specific category of properties above a specific amount in the Rand, is materially and unreasonably prejudicing any of the matters listed in subsection (17.1), the



Minister must act in terms of subsection (16.2).

- 16.4 A notice issued in terms of subsection (16.2) must give the reasons why a rate on the relevant category of properties, or a rate on the relevant category of properties above the amount specified in the notice, is materially and unreasonably prejudicing a matter listed in subsection (1).
- 16.5 The Minister, after consultation with the Minister of Finance, may by notice in the Gazette issue guidelines to assist municipalities in the exercise of their power to levy rates consistent with subsection (16.1).

## 17 **OTHER IMPERMISSIBLE RATES**

17.1 A municipality may not levy a rate-

17.1.1 subject to paragraph (18.1A) on the first 30% of the market value of public service infrastructure;

17.1.1 (A) on any property referred to in paragraphs (a), (b), (e), (g) and (h) of the definition of "public service infrastructure";

17.1.2 on those parts of a special nature reserve, national park or nature reserve within the meaning of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), which are not developed or used for commercial, business, agricultural or residential purposes;

17.1.3 on mining rights or a mining permit within the meaning of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), excluding any building, other immovable structures and infrastructure above the surface of the mining property required for purposes of mining;

17.1.4 on a property belonging to a land reform beneficiary or his or her heirs, dependents or spouse provided that this exclusion lapses-

(i) 10 years from the date on which such beneficiary's title was registered in the office of the Registrar of Deeds; or

(ii) upon alienation of the property by the land reform beneficiary or his or her heirs, dependents or spouse;

17.1.5 on the first R 15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality to a category determined by the municipality-

(i) for residential properties; or

(ii) for properties used for multiple purposes, provided one or more components of the property are used for residential purposes; or

- 17.1.6 on a property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship;
- 17.2 The exclusion from rates of a property referred to in subsection (17.1.2) lapses if the declaration of that property as a special nature reserve, national park, nature reserve or national botanical garden, or as part of such a reserve, park or botanical garden, is withdrawn in terms of the applicable Act mentioned in that subsection.
- 17.2.1 (i) If the property in respect of which the declaration is withdrawn is privately owned, the owner, upon withdrawal of the declaration, becomes liable to the municipality concerned for any rates that, had it not been for subsection (17.1.2), would have been payable on the property, notwithstanding section 78 of the Act, during the period commencing from the effective date of the current valuation roll of the municipality.
- (iii) If the property was declared as a protected area after the effective date of the current valuation roll, rates are payable only from the date of declaration of the property.
- 17.2.2 The amount for which an owner becomes liable in terms of paragraph (17.2.1) must be regarded as rates in arrears, and the applicable interest on that amount is payable to the municipality.
- 17.2.3 Paragraphs (17.2.2) and (17.2.3) apply only if the declaration of the property was withdrawn because of-
- (i) a decision by the private owner for any reason to withdraw from the agreement concluded between the private owner and the state in terms of the Protected Areas Act, and in terms of which the private owner initially consented to the property being declared as a protected area; or
- (ii) a decision by the state to withdraw from such agreement because of a breach of the agreement by the private owner.
- 17.3 The Minister, acting with the concurrence of the Minister of Finance, may from time to time by notice in the Gazette, increase the monetary threshold referred to in subsection 17.1.5 to reflect inflation.
- 17.4 The Minister may, by notice in the Gazette, lower the percentage referred to in subsection 17.1.1, but only after consultation with-
- (i) relevant Cabinet members responsible for the various aspects of public service infrastructure;
- (ii) organised local government; and
- (iii) relevant public service infrastructure entities.

17.4.1 The exclusion from rates of a property referred to in subsection (17.1.6) lapses if the property-

(i) is disposed of by the religious community owning it; or

(ii) is no longer used primarily as a place of public worship by a religious community or, in the case of an official residence contemplated in that subsection, is no longer used as such an official residence.

17.4.2 If the exclusion from rates of a property used as such an official residence lapses, the religious community owning the property becomes liable to the municipality concerned for any rates that, had it not been for subsection (17.1.6), would have been payable on the property, notwithstanding section 78 of the Act, during the period of one year preceding the date on which the exclusion lapsed.

17.4.3 The amount for which the religious community becomes liable in terms of paragraph (17.5.2) must be regarded as rates in arrears, and the applicable interest on that amount is payable to the municipality.

## 18 **EXEMPTION OF MUNICIPALITIES FROM PROVISIONS OF SECTION 17**

18.1 A municipality may apply, in writing, to the Minister to be exempted from paragraph (a), (e), (g) or (h) of section 17.1 of the Act if it can demonstrate that an exclusion in terms of the relevant paragraph is compromising or impeding its ability or right to exercise its powers or to perform its functions within the meaning of section 151(4) of the Constitution.

18.2 Any exemption granted by the Minister in terms of subsection (1)-

18.2.1 must be in writing; and

18.2.2 is subject to such limitations and conditions as the Minister may determine.

## 19 **CRITERIA FOR QUALIFICATION OF SPECIFIED CATEGORIES OF PROPERTY**

### 19.1 **General**

19.1.1 The Chief Financial Officer or his/her nominee reserve the right to conduct a full credit check or financial analysis on any person, organisation or institution applying for any rebate in this policy

19.1.2 If the applicant is found to have furnished false information to qualify for any rebate, the following will apply:

19.1.2.1 All retrospective subsidies received from the date of application will be reinstated;

19.1.2.2 All arrears will become payable immediately;

19.1.2.3 Credit control measures will apply; and

19.1.2.4 The applicant will not be eligible to apply for any subsequent rebate for a period determined by Council from time to time.

## 19.2 Agricultural Properties

19.2.1 The owner must apply to the Chief Financial Officer for each General Valuation cycle, by the date specified on the application form for the agricultural rebate. Owners who fail to apply for the rebate by due date will only be entitled to the rebate on the month following the date of the rebate being amended in the supplementary roll;

19.2.2 The Applicants must produce a tax certificate issued by the South African Revenue Services (SARS) proving that they are taxed as a farmer;

19.2.3 The applicant must provide a detailed sketch of the entire property showing the various uses of all the land;

19.2.4 The applicant must provide a detailed sketch showing the full uses of all the buildings;

19.2.5 The City reserves the right to inspect such properties before or after granting such rebates and to revoke or amend any decision made prior to such inspection;

19.2.6 The rebate terminates immediately on the sale of a property and /or the transfer of the property to a new owner;

19.2.7 A new owner must apply for reinstatement of the rebate within 3 months of registration of the property into his/her name and must meet all the criteria set out above;

19.2.8 No rebate will be granted to any owner whose rates and/or services account is in arrears.

## 19.3 Public Benefit Organisation Properties

19.3.1 The owner must apply to the Chief Financial Officer for each General Valuation cycle, by the date specified on the application form for which the rebate is sought. Owners who fail to apply for the rebate by due date will only be entitled to the rebate on the month following the date of the rebate being amended in the supplementary roll;

19.3.2 The Applicants must produce a tax exemption letter confirming that they qualify for tax exemption as contemplated by Part 1 of of the Ninth Schedule of the Income Tax Act. No 58 of 1962;

- 19.3.3 These rebates are intended to assist organisations that would be liable for the payment of the rates and that have limited resources and not for those who have the ability to pay as determined from their audited financial statements by the CFO or his/her nominee in terms of paragraph 20.4.
- 19.3.4 Assessment to determine the ability to pay rates by:
- 19.3.4.1 analysing the audited annual financial statements in terms of income and overall resources;
  - 19.3.4.2 examining the credibility of year on year expenditure;
  - 19.3.4.3 ensuring that profits or surpluses are calculated by excluding transfers to reserves; and
  - 19.3.4.4 excessive writing off or depreciation of assets;
  - 19.3.4.5 comparing the total annual turnover to the rates billed to determine whether the rates exceed 5% of the total turnover;
  - 19.3.4.6 accumulated reserves for specific purposes would not be taken into account with this assessment;
  - 19.3.4.7 Funds raised from external sources (such as grants, subsidies and donations) must be excluded when determining the ability to pay. The City reserves the right to inspect such properties before or after granting such rebates and to revoke or amend any decision made prior to such inspection.
- 19.3.5 The use of any land or buildings, or any part thereof, of any organisation in terms of 19.3 above, shall not be for the private pecuniary benefit of any individual, whether as a shareholder in a company or otherwise;
- 19.3.6 The use of the land and/or buildings, or any part thereof for any period on the property, by any organisation in terms of 19.3 above, for a recognised business use, shall result in the rebate being refused and full commercial rates shall apply;
- 19.3.7 The rebate terminates immediately on the sale of a property and /or the transfer of the property to a new owner;
- 19.3.8 A new owner must apply for reinstatement of the rebate within 3 months of registration of the property into his/her name and must meet all the criteria set out above;
- 19.3.9 No rebate will be granted to any owner whose rate and/or services account is in arrears.

## 19.4 Places of Worship

In terms of Section 17 (i) of the Act a municipality may not levy a rate on a property **registered** in the name of and **used primarily** as a place of public worship by a religious community, including the official residence registered in the name of that community which is occupied by the office-bearer of that community who officiates at services at that place of worship;

The following qualifying criteria will therefore apply:

- 19.4.1 The owner must apply to the Chief Financial Officer for each General Valuation cycle, by the date specified on the application form for the exemption. Owners who fail to apply for the exemption by due date will only be entitled to the exemption on the month following the date of the exemption being amended in the supplementary roll;
- 19.4.2 The Applicants must produce a tax exemption letter confirming that they are registered as a bona fide religious organisation and qualify for tax exemption in terms of the SARS criteria;
- 19.4.3 The use of the land and/or buildings, or any part thereof for any period on the property, by any organisation in terms of 19.3 above, for a recognised business use, shall result in the rebate being refused and full commercial rates shall apply;
- 19.4.4 The rebate terminates immediately on the sale of a property and /or the transfer of the property to a new owner;
- 19.4.5 A new owner must apply for reinstatement of the rebate within 3 months of registration of the property into his/her name and must meet all the criteria set out above;

## 20 **LIMITS ON ANNUAL INCREASES**

- 20.1 The Minister may, with the concurrence of the Minister of Finance and by notice in the Gazette, set an upper limit on the percentage by which-
  - 20.1.1 rates on property categories or a rate on a specific category of properties may be increased; or
  - 20.1.2 the total revenue derived from rates on all property categories or a rate on a specific category of properties may be increased.
- 20.2 Different limits may be set in terms of subsection (21.1) for-
  - 20.2.1 different kinds of municipalities which may, for the purposes of this section, be defined in the notice either in relation to categories, types, or budgetary size of municipalities or in any other way; or

20.2.2 different categories of properties, subject to section 19 of the Act.

20.2.2(A) The Minister may, with the concurrence of the Minister of Finance, and by the

notice referred to in subsection (21.1), delay the implementation of a limit, for a period determined in that notice and in respect of the different kinds of municipalities defined in terms of subsection (21.2.1).

20.3 The Minister may, on written application by a municipality, and on good cause, exempt a municipality from a limit set in terms of subsection 21.1.

20.4 This section must be read with section 43 of the Municipal Finance Management Act.

## 21 **REBATES PER CATEGORY OF OWNERS OF PROPERTY**

The Municipality may grant a rebate

21.1 On a property owned and occupied by the Msunduzi Municipality.

21.2 On a property whose owner is in receipt of an old age pension or disability grant, subject to an approved annual application and provided that the applicant satisfies all the criteria for such rebate.

21.3 To a minor(s) who owns property or is the sole heir of a property where all owners and occupants are under the age of 18 subject to an approved annual application and where all other criteria for the rebate are met.

21.4 On a rateable property which has been listed in terms of Section 7.2 of the Municipality's Town Planning Scheme of Pietermaritzburg and Plessislaer, and which is considered to be of historic and/or architectural merit and/or interest, sufficient to justify the preservation thereof, subject to an approved annual application and provided that the owner of such property qualifies in terms of the criteria for this rebate.

21.5 To developers who own property and install the necessary infrastructure for the development of the raw land and which results in an enhanced market value of the land, provided that the owner of such property satisfies the criteria for such rebate.

21.6 To a small home business owner who resides on the property, where an approved portion of the property is being utilised to conduct business in terms of an approved Town Planning consent, subject to an approved annual application and where all other criteria for the rebate are met.

## **22 CRITERIA FOR QUALIFICATION FOR REBATE FOR CATEGORIES OF OWNERS OF PROPERTY**

### **22.1 Pensioners or Disability grantees**

22.1.1 Rebates must be applied for annually;

**22.2** The application must be completed in full and submitted together with CERTIFIED COPIES of the following documents;

- (i) Identity Document(s) of all owners or part owners;
- (ii) Proof of Grant – from SASSA OR Proof of Private Pension;
- (iii) Proof of all additional income;
- (iv) 3 months' current bank statements of all bank accounts;
- (v) Proof of unemployment from Dept. of Labour;

22.2.2 Rebates will only be implemented 30 days following the date of application of all documentation being correctly submitted. Applications are only valid for the appropriate

financial year and shall lapse at the end of that year. If no new application is received before the expiry date normal tariffs will be due and payable;

22.2.3 Pensioners must be 60 years or older to qualify for a rebate;

22.2.4 Applicant(s) must be the OWNER and OCCUPIER of the premises as at 1 July of each year;

22.2.5 The total income of the APPLICANTS, SPOUSES and ALL OCCUPANTS – FROM ALL SOURCES must not exceed the limit set by Council during the annual budget;

22.2.6 There should be ONE DWELLING ONLY on the property;

22.2.7 There should be one electricity METER and one water meter ONLY on the property;

22.2.8 Applicants and his/her spouse may not own more than one property (including vacant land either nationally or internationally);

22.2.9 In the case of joint ownership, all owners must meet the qualifying criteria



contained in this policy;

22.2.10 The FINANCE BUSINESS UNIT must be notified immediately of any CHANGE IN CIRCUMSTANCES;

22.2.11 No rebate will be granted to any pensioner or grantee whose rates and/or services account is in arrears unless a valid payment arrangement is in place and is being maintained. The rebate will be terminated if any default to an arrangement occurs;

### **22.3 Child headed Households**

22.3.1 Rebates must be applied for annually;

22.3.2 Applicants and occupiers must be 18 years old or younger in terms of the legal age of majority;

22.3.3 The application must be completed in full and submitted together with CERTIFIED COPIES of the following documents:

- (i) Identity Document(s) of all owners or part owners;
- (ii) Proof of Grant – from SASSA if applicable;
- (iii) Proof of all additional income if applicable;
- (iv) 3 months' current bank statements of all bank accounts;
- (v) Proof of unemployment from Dept. of Labour.

22.3.4 Rebates will only be implemented 30 days following the date of application of all documentation being correctly submitted. Applications are only valid for the appropriate financial year and shall lapse at the end of that year. If no new application is received before the expiry date normal tariffs will be due and payable;

22.3.5 Applicant(s) must be the OWNERS or HEIRS of the Property and OCCUPIER of the premises as at 1 July each year;

22.3.6 The total income of the APPLICANTS, and ALL OCCUPANTS – FROM ALL SOURCES must not exceed the amounts set by Council during the annual budget;

22.3.7 There should be ONE DWELLING ONLY on the property;

22.3.8 There should be one electricity METER and one water meter ONLY on the property;

22.3.9 Applicants may not own more than one property (including vacant land);

- 22.3.10 In the case of joint ownership, all owners must meet the qualifying criteria contained in this policy;
- 22.3.11 The FINANCE BUSINESS UNIT must be notified immediately of any CHANGE IN CIRCUMSTANCES;
- 22.3.12 No rebate will be granted to child headed household where the rates and/or services account is in arrears unless a valid arrangement is in place and is being maintained. The rebate will be terminated if any default to an arrangement occurs;
- 22.3.13 The Municipality reserves the right to inspect such properties before or after granting such rebates and to revoke or amend any decision made prior to such inspection;
- 22.3.14 The rebate terminates immediately on the transfer of a property, unless the transferee is the surviving spouse and is heir to the property;
- 22.3.15 No rebate will be granted to any applicant whose rates and/or services account(s) are in arrears unless a valid payment arrangement is in place and this arrangement is being maintained.

#### **22.4 Listed Property Rebate**

- 22.4.1 Rebates must be applied for annually;
- 22.4.2 The Listed Property Plaque must be displayed on the building;
- 22.4.3 In the case of National Monuments – this plaque must also be displayed;
- 22.4.4 The property must be kept in a good state of repair and be clean and tidy;
- 22.4.5 The rebate terminates immediately on the transfer of a property and no rebate can be applied for till the following financial year;
- 22.4.6 The Municipality reserves the right to inspect such properties before or after granting such rebates and to revoke or amend any decision made prior to such inspection;
- 22.4.7 No rebate will be granted to any owner whose rates and/or services account(s) are in arrears.

## 22.5 Developers rebate

22.5.1 Only one rebate application is required for the rebate period of 3 years

22.5.2 The rebate is granted over 3 years as follows:

22.4.2.1 Year 1 - 100%;

22.4.2.2 Year 2 - 66%;

22.4.2.3 Year 3 - 33 %;

22.5.3 The rebate is subject to the developer purchasing raw undeveloped land and installing the necessary infrastructure for the purposes of providing services to the properties and its sub-division or Sectional Title units;

22.5.4 The rebate terminates immediately on the transfer of a property and only one rebate can be granted on any property;

22.5.5 The Municipality reserves the right to inspect such properties before or after granting such rebates and to revoke or amend any decision made prior to such inspection;

22.5.6 No rebate will be granted to any owner whose rates and/or services account(s) are in arrears;

22.5.7 No rebate will be granted to any developer as envisaged in 21.5 above, who has previously received a business concession or development incentive from the municipality for any part of the development;

22.5.8 The rebate cannot be applied in conjunction with any other rebate;

## 23. **ADDITIONAL RATES FOR SPECIAL RATING AREAS**

23.1 The Municipal Council may by resolution of its council –

23.1.1 determine an area within the Municipality as a special rating area;

23.1.2 levy an additional rate on the property in that area for the purpose of raising funds for improving or upgrading that area; and

23.1.3 differentiate between categories of properties when levying an additional rate referred to in paragraph 20.1.2

23.2 Before determining a special rating area, the Municipality must -

23.2.1 consult the affected community on the proposed boundaries on the following matters

- 23.2.1.1 the proposed boundaries of the area; and
- 23.2.1.2 the proposed improvement or upgrading of the area; and
- 23.2.2 obtain the consent of the majority of the members of the affected community in the proposed special rating area who will be liable for paying the additional rate.
- 23.3 When a municipality determines a special rating area, the Municipality –
  - 23.3.1 must determine the boundaries of the area;
  - 23.3.2 must indicate how the area is to be improved or upgraded by funds derived from the additional rate;
  - 23.3.3 must establish separate accounting and other record-keeping systems regarding –
    - 23.3.3.1 the revenue generated by the additional rate; and
    - 23.3.3.2 the improvement and upgrading of the area; and
  - 23.3.4 may establish a committee composed of persons representing the community in the area to act as consultative and advisory forum for the municipality on the improvement and upgrading of the area, provided representivity, including gender representivity, is taken into account when such a committee is established. Such a committee must be a subcommittee of the ward committee or committees in the area, if the municipality has a ward committee or committees in the area.
- 23.4 This section may not be used to reinforce existing inequities in the development of the municipality, and any determination of a special rating area must be consistent with the objectives of the municipality's integrated development plan
- 23.5 This section must be read with section 85 of the Municipal Systems Act if this section is applied to provide funding for an internal municipal services district established in terms of that section of the Municipal Systems Act.
- 23.6 The municipality may enact By-Laws to further regulate special rating areas.
- 23.7 This Section replaces any existing separately approved policy and By Laws in respect of Special Rating Areas.

## **24. REGISTER OF PROPERTIES**

24.1 The Municipality must draw up and maintain a register in respect of properties situated within that municipality, consisting of a Part A and a Part B.

24.2 Part A of the register consists of the current valuation roll of the municipality, including any supplementary valuation rolls of the municipality prepared in terms of section 78.

24.3 Part B of the register must specify which properties on the valuation roll or any supplementary valuation rolls are subject to-

24.3.1 an exemption from the rate in terms of section 15 of the Act;

24.3.2 a rebate on or a reduction in the rate in terms of section 15 of the Act;

24.3.3 a phasing-in of the rate in terms of section 21 of the Act; or

24.3.4 an exclusion referred to in section 17(1) (a), (e), (g), (h) and (i) of the Act.

24.4 The register must be open for inspection by the public during office hours. If the municipality has an official website or another website available to it, the register must be displayed on that website.

24.5 The Municipality must at regular intervals, but at least annually, update Part B of the register. Part A of the register must be updated in accordance with the provisions of this Act relating to the updating and supplementing of valuation rolls.

## **25. PROPERTY RATES PAYABLE BY OWNERS**

25.1 A rate levied on a property shall be paid by the owner of that property.

25.2 Where a property is owned jointly the owners shall be jointly and severally liable for the payment of the rates on such property.

25.3 In respect of agricultural property that is owned by more than one owner in undivided shares where the holding of such undivided shares was allowed before the commencement of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970), the Municipality shall hold owners jointly and severally liable for all rates levied in respect of the property concerned

25.4.1 Properties owned by the Municipality and occupied by persons other than the Municipality shall be shown separately in the valuation roll and valued at market value.

- 25.4.2 In respect of a Municipal property where multiple tenancies occur, the entire building
- 25.4.3 shall be valued at market value, and the rates will be based on a pro rata portion of the market value, calculated by lettable area and the rates levied shall be included in the rentals.
- 25.4.4 Alternatively, where 25.4.2 is not possible, the lettable areas will be valued as units of the building calculated by the lettable area, and shown separately in the roll and rated separately in addition to the rentals.

## **26. PAYMENT OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES**

- 26.1 A rate levied by a municipality on a sectional title unit is payable by the owner of the unit or the holder of a right contemplated in section 25 or 27 of the Sectional Titles Act.
- 26.2 Where a sectional title scheme is in the course of development, the underdeveloped portion of the property of a scheme under construction shall be rated in accordance with the value assigned in terms of S46 (2)(a) of the Act and the rates on such undeveloped portion shall be paid by the developer. This value will reduce to zero on completion of the full approved scheme with the exception of any additional rights to extend.
- 26.3 A municipality may not recover the rate on a sectional title unit, or on a right contemplated in section 25 or 27 of the Sectional Titles Act registered against the sectional title unit, or any part of such rate, from the body corporate controlling a sectional title scheme, except when the body corporate is the owner of any specific sectional title unit, or the holder of such right.
- 26.4 A body corporate controlling a sectional title scheme may not apportion and collect rates from the owners of the sectional title units in the scheme.
- 26.5 The common property in a sectional title scheme shall not be valued or rated.

## **27. METHOD AND TIME OF PAYMENT**

- 27.1 The Municipality shall recover rates on a monthly basis in twelve near equal instalments together with any additional amounts due as a result of a supplementary valuation.
- 27.2 Rates shall be paid in each month on or before a date determined by the Municipality.
- 27.3 Rates due in respect of a supplementary valuation and which the effective date is more than 6 months of the date on the rendering of the account must be paid within 90 days of the account where after, normal interest and penalties will apply.

27.3.1 The final date for the payment of rates, as determined by the Municipality in terms of subsection (26.2) above, shall not be affected by reason of any objection in terms of section 52, or an appeal in terms of section 55, of the Act;

27.3.2 If an adjustment in the valuation of a property in respect of Section 55 of the Act, affects the amount due for rates payable on that property, the municipal manager must-

27.3.2.1 calculate-

- (i) the amount actually paid on the property since the effective date; and
- (ii) the amount payable in terms of the adjustment on the property since the effective date; and

27.3.2.2 either-

- (i) recover from the person liable for the payment of the rate the difference determined in terms of paragraph (a) without adding interest on the amount due for rates; or
- (ii) repay to the person who made the payment the difference determined in terms of paragraph (27.3.2.1) plus interest at the prescribed rate.

27.4 The Municipality may recover a rate annually for National and Provincial Government owned property. Such annual amount to be paid by 31 October of each year where after normal interest and penalties will apply.

## **28. ACCOUNTS TO BE FURNISHED**

28.1 The Municipality shall furnish each person liable for payment of a rate with a written account which shall contain the following information –

28.1.1 the amount due for rates payable;

28.1.2 the date on or before which the amount is payable;

28.1.3 how the amount was calculated;

28.1.4 the market value of the property;

28.1.5 if the property is subject to any compulsory phasing-in discount in terms of section 21 of the Act, the amount of the discount;

28.1.6 if the property is subject to any additional rate in terms of section 22 of the Act, the amount due for additional rates.

- 28.2 Any person liable for the payment of a rate in respect of rateable property shall notify the municipality of any address within the Republic to which notices in respect of such property shall be sent.
- 28.3 Any notice which the municipality is required to give in terms of section 28.1 of this policy shall be deemed to have been properly given -
- 28.3.1 if it has been sent by pre-paid post -
- 28.3.1.1 to an address notified in terms of subsection 28.2 of this policy;
- 28.3.1.2 if subparagraph 28.3.1.1 does not apply and the property is not vacant land, to the address of the property shown in the valuation roll; or
- 28.3.1.3 to an address which appears to be the residential or business address of the person liable for the payment of the rate, according to the records of the municipality, which method of posting shall be utilized if subparagraphs 28.3.1.1 and 28.3.1.2 of this policy do not apply or if any notice posted in terms of the said subparagraphs has been returned as undelivered;
- 28.3.2 if it has in fact come to the notice of the person to whom it is required to be given;
- 28.3.3 if paragraphs 28.3.1 and 28.3.2 of this policy do not apply, by affixing on the notice board of the municipality for a period of at least thirty days, a schedule containing the name of the person who is liable for the payment of the rate as shown in the valuation roll and the particulars required by section 28(1) of the Act;
- 28.4 Where a property in respect of which a rate is payable, is owned by more than one person and either or both of whom are liable for the payment of a rate on such property, the notices required to be given in terms of this section shall be deemed to have been properly given if posted or delivered to the address of one of such persons; provided that such persons may agree amongst themselves to which address such notices shall be posted or delivered and may notify the municipality accordingly, in the manner provided for in subsection 28.3.
- 28.5 28.5.1 Any person who is liable for payment of a rate but who has not received an account shall not be absolved from paying the amount owing by due date and any amount outstanding after such date shall attract penalty charges as provided for in section 30 of this policy;
- 28.5.2 If any person who is liable for payment of a rate does not receive an account, such person shall obtain a copy of such account from the offices of the Municipality, before the due date for payment of the account;



28.5.3 If any person who is liable for the payment of a rate shall notify the Municipality of any change of address including any e-mail address or other contact details;

28.5.4 A change of address referred to in 28.5.3 above shall take effect on receipt thereof by the Municipality;

28.5.5 If any person who is liable for the payment of a rate does not receive an account as a result of such person's failure to notify the municipality of a change of address, such person shall nevertheless be required to pay the amount owing by due date.

## **29. RECOVERY OF ARREAR RATES**

- 29.1 In terms of the Municipal Finance Management Act the municipality shall take all necessary measures to recover all rates due and payable to the municipality.
- 29.2 A letter of demand shall be sent to the owner if the account is 60 days or more in arrears.
- 29.3 The municipality shall terminate the services to the property if the owner fails to respond to the letter of demand, regardless of whether the owner is the occupier on the property.
- 29.4 The municipality may publish a list of all rates defaulters, who have failed to pay within 60 days after the final instalment of the rates assessment, calling on the ratepayer to settle the arrears within a specified time frame, failing which, Council's credit control and debt collection procedures will be followed and an application will be made to a court of competent jurisdiction for an order for the sale of the property by public auction.
- 29.5 If the rates remain unpaid in terms of 29.4 above, the municipality shall make application to a court of competent jurisdiction showing the amount of rates, penalties and surcharges then in arrear, and that all notices have been given and requesting the court to order any such rateable property be sold by public auction and the proceeds thereof to be paid in to court, and to direct payment to the Municipality of all rates and penalties and surcharges accrued in respect of the date of such sale together with the costs of obtaining the said order.
- 29.6 If before the sale of any rateable property in terms of an order made under subsection 29.5 there is produced to the Deputy Sheriff or other person charged with the sale thereof, a certificate by the Municipality that all amounts owing in terms of outstanding and arrear rates, penalty charges and surcharges, together with the costs of obtaining the said order have been paid, the said property shall be withdrawn from the sale.
- 29.7 Notwithstanding that all outstanding and arrear rates, penalty charges, surcharges and costs of obtaining the said order may have been paid before the said sale, the Municipality shall not be liable to any person for any loss or damage suffered by such person by reason of the sale of any such property in respect of which no such

certificate has been produced to the said Deputy Sheriff or other person.

### **30. INTEREST AND COLLECTION CHARGES**

- 30.1 Interest shall be charged on all rates arrears in terms Section 64(g) of the Municipal Finance Management Act and the Municipal Systems Act.
- 30.2 In addition to interest charged in respect of any property, collection charges shall accrue as follows:
- 30.2.1 As from the last working day referred to in section 29.4 of this policy, an amount representing ten per cent (10%) of the capital amount of the rates then in arrear in terms of Section 75A 1(b) of the Municipal Systems Act;
- 30.2.2 On the grant of a court order in terms of section 29.5 of this policy, a further amount representing ten per cent (10%) of the capital amount of the rates then in arrear in terms of Section 75A 1(b) of the Municipal Systems Act.
- 30.3 The said charges shall be payable to the Municipality and the said amounts or such of them as may be applicable may be recovered by it in any proceedings for the recovery of rates.

### **31. RESTRAINT ON THE TRANSFER OF PROPERTY AND REVENUE CLEARANCE CERTIFICATES**

- 31.1 Section 118 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) provides as follows:
- “118(1) A registrar of deeds may not register the transfer of property except on production of a prescribed certificate –*
- (a) issued by the municipality or municipalities in which that property is situated; and*
- (b) which certifies that all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.*
- 1A) A prescribed certificate issued by a municipality in terms of subsection (1) is valid for a period of 60 days from the date it has been issued.*
- (2) In the case of the transfer of property by a trustee of an insolvent estate, the provisions of this section are subject to section 89 of the Insolvency Act, 1936 (Act No. 24 of 1936).*
- (3) An amount due for municipal services, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.*

(4) Subsection (1) does not apply to –

(a) a transfer from the national government, a provincial government or a municipality of a residential property which was financed with funds or loans made available by the national government, a provincial government or a municipality; and

(b) the vesting of ownership as a result of a conversion of land tenure rights into ownership in terms of Chapter 1 of the Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991);

*Provided that nothing in this subsection precludes the subsequent collection by a municipality of any amounts owed to it in respect of such a property at the time of such transfer or conversion.*

(5) Subsection (3) does not apply to any amount referred to in that subsection that became due before a transfer of a residential property or a conversion of land tenure rights into ownership contemplated in subsection (4) took place.”

- 31.2 The provisions of section 118 of the Systems Act shall be strictly adhered to at all times.
- 31.3 Only applications completed in full on the prescribed form, received from a bona fide conveyancer, State Department or Municipal Department and accompanied by the prescribed fee as recorded in the tariff register will be processed.
- 31.4 In accordance with section 118 (i) of the Systems Act, where the amount due on a property exceeds two years and a clearance certificate is issued, all amounts in excess of the 2-year requirement will be endorsed on the clearance certificate and the conveyancer shall notify the purchaser of the property in writing that he/she may be liable for the outstanding account(s) on transfer. A copy of the notification must be sent to the municipality on transfer.
- 31.5 Section 118(1A) (b) shall not apply where the owner or occupant of the property has signed a waiver of this section for the purposes of payments arrangements in terms of the Msunduzi Municipality Debt Collection and Credit Control Policy and the full arrears relating to the property shall be paid.
- 31.6 Where the monthly consumption of services to a property has been averaged for a period of more than 60 days, the owner, in consultation with the Municipality, shall make arrangements for the reading of the meter in respect of the relevant services in order that the requirements of section 118 of the Systems Act are complied with.
- 31.7 Where a conveyancer is able to demonstrate that exceptional circumstances exist, the Chief Financial Officer or the delegated authority may accept a letter of undertaking, or a guarantee, for the payment of the full amounts required, provided that the full amounts are paid on the date of registration of transfer of the property.

31.8 Where any amendments to the value or use on the property are awaiting adjustments in an open supplementary roll any rates must be paid in terms of the effective dates prescribed in Section 78 of the Act, and the current rates will be charged at the enhanced value and/or category amendment.

### **32. DATE OF VALUATION**

32.1 For the purposes of a general valuation, the Municipality shall, by resolution, determine a date that may not be more than 12 months before the start of the financial year in which the valuation roll is to be first implemented.

32.2 The general valuation roll shall reflect the market value of properties determined in accordance with market conditions, which applied as at the date of valuation.

### **33. SUPPLEMENTARY VALUATIONS AND INTERIM RATES ADJUSTMENTS**

In terms of Section 78 of the Municipal Property Rates Act:

“(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 general valuation;

(f) that must be revalued for any other exceptional reason;

(g) of which the category has changed [.];

(h) the value of which was incorrectly recorded in the valuation roll as a result of a clerical or typing error.

(2) For the purposes of subsection (1), the provisions of Part 2 of Chapter 4 and, Chapters 5, 6, 7, read with the necessary changes as the context may require, are applicable, except that-

(a) a municipal valuer who prepared the valuation roll may be designated for the preparation and completion of the supplementary valuation roll; and

(b) the supplementary valuation [roll takes effect on the first day of the month following the completion of the public inspection period required for the supplementary valuation roll in terms of section 49 (as read with this section), and] remains valid for the duration of the municipality's current valuation roll.

- (3) Supplementary valuations must reflect the market value of properties determined in accordance with-
- (a) market conditions that applied as at the date of valuation determined for purposes of the municipality's last general valuation; and
  - (b) any other applicable provisions of this Act.
- (4) Rates on a property based on the valuation of that property in a supplementary valuation roll become payable with effect from –
- (a) the first day of the month following the posting of the notice contemplated in subsection (5) the effective date of the supplementary roll, in the case of a property referred to in subsection (1) (a), (e) or (f);
  - (aA) the first day of the month following the posting of the notice contemplated in subsection (5) in the case of property referred to in subsection 1 (a), (e), (f) or (h): Provided that in the case of a decrease in value in respect of a property referred to in subsection 1(e), the rates become payable on the date the property was incorrectly valued or the clerical or typing error was made;
  - (b) the date on which the property was included in the municipality, in the case of a property referred to in subsection (1) (b);
  - (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 subsection (1) (c);
  - (d) the date on which the event referred to in subsection (1) (d) has occurred;
  - (e) the date on which the change of category referred to in subsection (1) (g) occurred.
- (5) (a) A municipal valuer must on completion of the supplementary valuation contemplated in subsection (1) (a) to (g), and following a correction contemplated in subsection 1(h), serve the results of the supplementary valuations or corrections contemplated in subsections (1)(g) and (h), by ordinary mail, or if appropriate, in accordance with section 115 of the Municipal Systems Act, on every owner of property who has been affected by a supplementary valuation contemplated in subsection (1)(a) to (g) and a correction contemplated in subsection (1)(h), a notice reflecting the supplementary valuation or correction of the property, as well as the particulars listed in section 48(2);
- (b) The notice referred to in paragraph (a) must inform the property owner that he or she may lodge a request for review with the municipal manager in writing, within 30 days after the posting of the notice in respect of any matter reflected in the supplementary valuation;

(c) The municipal valuer may adjust the valuation on consideration of the request for review contemplated in paragraph (b).

(6) The municipality must, at least once a year, compile and publish a supplementary valuation roll of all properties on which a supplementary valuation, as contemplated in subsection (1) was made, including review decisions referred to in subsection (5)(b), and make it public and available for inspection in the manner provided for in section 49.”

#### **34. BY-LAWS TO BE ADOPTED**

34.1 By-laws shall be adopted to give effect to the Council's Rates Policy.

34.2 By laws in terms of 34.1 above may differentiate between

34.2.1 different categories of properties; and

34.2.2 different categories of owners of properties liable for the payment of rates

34.3 The by-laws are to comply with the requirements of the Municipal Systems Act, 2000 (Act No. 32 of 2000), the Municipal Property Rates Act (Act No. 6 of 2004) and the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and any amendments thereto.

34.4 The Municipality shall, with effect from 1 July 2015 comply with and apply the provisions of the Municipal Property Rates Amendment Act, 29 of 2014, which, among others, include the provisions referred to in bylaws 27.3 – bylaw 27.6.

#### **35. ENFORCEMENT OF OTHER LEGISLATION**

35.1 In addition to the provisions contained in this policy and the published by-laws relating hereto, the Council may enforce any other rights or exercise any power conferred upon it by the Municipal Systems Act, 2000 (No. 32 of 2000), the Property Rates Act, 2004 (Act No. 6 of 2004) and the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and any other applicable legislation.

35.2 In the event of an inconsistency between the provisions of this Policy and any other Policy, the provisions of this Policy shall prevail to the extent that the inconsistency can be established.

35.3 This Policy must be read in parallel with the Municipal Property Rates Act, The Municipal Finance Management Act and any other relevant legislation, and any amendments thereto.