

MSUNDUZI MUNICIPALITY



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The Msunduzi Municipality

RATES POLICY

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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 gain for the purpose of the cultivation of soils for purposes of planting and gathering of crops, forestry in the context of the planting or growing of trees in a managed and structured fashion the rearing of livestock and game or the propagation and harvesting of fish, but excludes the use of a property for the purpose of eco-tourism or for the (trading in or hunting of game) accommodation of members of the public for gain, and in respect of property on which game is reared , traded or hunted, it excludes any portion that is used for the accommodation of visitors for gain

1.2 "business" or "**commercial property**" means – property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity or property on which the administration of the business of private or public entities takes place

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 “**developer**” means an owner who purchases raw land and installs the necessary infrastructure for development of the land for residential, industrial or commercial purposes;
- 1.6 “**dwelling, shops, flats**” (**DSF**) means any property where a commercial component exists together with a block of residential units provided that two thirds or more of the floor area is used for residential 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 next year;
- 1.9 “**impermissible rates category**” means all properties in the valuation roll that are not permitted to be rated in terms of Section 17 of the MPRA, comprising places of worship, land beneficiaries and protected areas as declared by the Department of Environmental Affairs;
- 1.10 “**industrial property**” means property used for a branch of trade or manufacturing, production, assembly or processing of finished products from raw materials or fabricated parts in respect of which capital and labour are involved, and includes any office or other accommodation on the same property, the use of which is incidental to such activity
- 1.11 “**land reform beneficiary**”, in relation to a property, means a person who-

- 1.11.1 acquired the property through-
- 1.11.1.1 The Provision of Land and Assistance Act, 1993 (Act NO.126 of 1993); or
 - 1.11.1.2 The Restitution of Land Rights Act, 1994 (Act No. 22 of 1994)
- 1.11.2 Holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or
- 1.11.3 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;
- 1.12 **"market value"** in relation to a property, means the value of the property determined in accordance with section 46 of the Act;
- 1.13 **"mining"** means property used for mining purposes or purposes incidental to mining operations.
- 1.14 **"Minister"** means the Cabinet member responsible for local government;
- 1.15 **"multiple purposes"** means a property used for more than one purpose.
- 1.16 **"municipal property"** means property of which the Municipality is the owner but excludes registered leases and for the purposes of rating those properties occupied by persons other than the municipality;
- 1.17 **"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-

- 1.17.1 A property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and
- 1.17. A property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified;
- 1.18 “mining property” means a property used for mining operations as defined in the Minerals and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)
- 1.19 “**occupier**” means any person who occupies any property or part thereof, without regard to the title under which he/she occupies the property.
- 1.20 “**other property**” means all properties that are not allocated as yet to the rates property categories in respect of section 14.1 – 14.15 of the Msunduzi Municipality Rates Policy
- 1.21 “**owner**”-
- 1.21.1 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;
- 1.21.2 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;
- 1.21.3 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
- 1.21.4 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:

- 1.21.4.1 A trustee, in the case of a property in a trust excluding state trust land;
 - 1.21.4.2 an executor or administrator, in the case of a property in a deceased estate;
 - 1.21.4.3 a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
 - 1.21.4.4 a judicial manager, in the case of a property in the estate of a person under judicial management;
 - 1.21.4.5 a curator, in the case of a property in the estate of a person under curatorship;
 - 1.21.4.6 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;
 - 1.21.4.7 a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
 - 1.21.4.8 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;
- 1.22 **“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 1.21 above within 60 days of the issue of that certificate;

- 1.23 **"permitted use"** in relation to a property, means the limited purposes for which the property may be used in terms of –
- 1.23.1 Any restrictions imposed by-
- 1.23.1.1 A condition of title;
- 1.23.1.2 A provision of a town planning or land use scheme; or
- 1.23.1.3 Any legislation applicable to any specific property or properties; or
- 1.23.2 Any alleviation of any such restrictions; "person" includes an organ of state;
- 1.24 **"places of worship"** means a property registered in the name of and used primarily as a place of public worship by a religious community, including **one** 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,
- 1.25 **"property"** means-
- 1.25.1 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;
- 1.25.2 a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- 1.25.3 a land tenure right registered in the name of a person or granted to a person in terms of legislation; or

- 1.25.4 public service infrastructure;
- 1.26 **“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.
- 1.27 **“public benefit organization property”** means any property owned by a public benefit organization and used for any specified public benefit activity listed in part 1 of the ninth Schedule to the Income Tax Act excluding Item 3 and 5 being land and housing, places of worship already 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.
- 1.28 **“public service infrastructure”** means publicly controlled infrastructure of the following kinds:
- 1.28.1 national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- 1.28.2 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;
- 1.28.3 power stations, power substations or power lines forming part of an electricity scheme serving the public;
- 1.28.4 gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- 1.28.5 railway lines forming part of a national railway system;

- 1.28.6 communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- 1.28.7 runways or aprons at national or provincial airports;
- 1.28.8 any other publicly controlled infrastructure as may be prescribed; or
- 1.28.9 a right registered against immovable property in connection with infrastructure mentioned in paragraphs 1.22.1 to 1.22.8;
- 1.29 “rate randage” means the cents in the rand that is set as the tariff for each category for the levying of rates
- 1.30 “**residential property**” means a property included in the valuation roll as residential
- 1.31 “**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.
- 1.32 “**sectional title garages**” means any garage within a residential sectional title scheme that has been registered as a separate sectional title unit.
- 1.33 “**small home business**” – means a property previous rated as residential where an owner or lessee runs a small business from the premises and which is still primarily used as a place of residence by that owner or lessee and

where special (remove) any (add) consent has been obtained in terms of the Town Planning scheme to run this business on the premises. All conditions in respect of the Special Consent will apply.

- 1.34 “**the Act**” means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).
- 1.35 “**unauthorized use**”– means any property used for any purpose other than its permitted zoned use or that has not been granted special consent by the municipality in terms of its Town Planning Scheme; and that has any unauthorized structures on the property that are not part of the approved plan; that cannot therefore be placed into any of the existing current permitted use categories approved by Council in the Rates Policy.
- 1.36 “**vacant land**” means any undeveloped property as listed in the valuation roll

INTRODUCTION

PART 1: RATES POLICY

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.”

PART 2: LEVYING OF RATES

4. LEVYING OF RATES

4.1 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.

4.2 In levying rates on property the Municipality is not obliged to levy rates on properties of which it is the owner, or public service infrastructure, or 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. DIFFERENTIAL RATES

The Municipality may, by resolution, and in terms of criteria set out in this policy, levy different rates for different categories of rateable property, which may include categories

determined according to the use of the property, the permitted use of the property or the geographical area in which the property is situated.

6. IMPERMISSIBLE DIFFERENTIATION

The Municipality may not levy -

- 6.1 different rates on residential properties, except as provided for in sections 11(2) [uniform fixed amount for rates], 21 [phasing in of rates] and 89 [use of existing valuation roll/supplementary roll] of the Act;
- 6.2 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;
- 6.3 rates which unreasonably discriminate between categories of non-residential properties;
- 6.4 additional rates except as provided for in section 22 [special rating areas] of the Act.

7. PROPERTIES USED FOR MULTIPLE PURPOSES

A property used for multiple purposes and where there is not a separate rating category shall, for rates purposes, be assigned to a category determined by the Municipality for the primary use of the property.

8. LEVYING OF PROPERTY RATES ON SECTIONAL TITLE SCHEMES

8.1 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.

8.2 This will be applicable only after the first valuation roll of the Municipality has been prepared in terms of the Act. In the interim, the body corporate remains liable for payment of rates on sectional title schemes. Once the valuation roll has been prepared, the body corporate will only be liable for payment of rates in those cases where it is the owner of any specific sectional title unit.

9. AMOUNT DUE FOR RATES

9.1 The rate levied by the Municipality shall be an amount in the Rand on the market value of the property.

9.2 Furthermore, in the interest of accelerating the provision of basic services to communities, and enhancing the international competitiveness of the South African economy and mobilization of foreign investments and job creation, the Municipality may consider exempting from rating all components of public service infrastructure as defined in the Act.

9.3 The Municipality acknowledges that the Minister may from time to time increase the monetary threshold referred to in section 21, to reflect inflation.

10. PERIOD FOR WHICH RATES MAY BE LEVIED

10.1 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.

10.2 The Municipality shall, annually, at the time of its budget, set the amount in the Rand for rates.

10.3 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).

11. COMMENCEMENT OF RATES

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

12. PROMULGATION OF RESOLUTIONS LEVYING RATES

12.1 A rate levied by the Municipality shall be adopted by resolution supported by a majority of the members of the Council.

12.2 The Municipality shall publish the resolution in the Provincial Gazette.

12.3 The Municipal Manager shall, without delay, conspicuously display the resolution for a period of at least 30 days at the Municipality's head office and satellite offices and libraries and, if applicable, on a website available to it.

12.4 In addition, the Municipal Manager shall, without delay, advertise in the media a notice stating that a resolution levying a rate on property has been passed by the Council and that the resolution is available for inspection at the Municipality's head office and satellite offices and libraries during office hours and on the Municipality's website, if applicable.

13. EXEMPTIONS. REDUCTIONS AND REBATES

13.1 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.

13.2 The Municipal Manager shall annually table in the Council of the Municipality a list of all exemptions, rebates and reductions granted by the Municipality during the previous financial year together with a statement reflecting the income foregone by the Municipality by way of exemptions, rebates, reductions, exclusions and the phasing-in discount granted in terms of section 21 of the Act.

13.3 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.

14. CATEGORIES OF PROPERTIES

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

- 14.1 agricultural properties;
- 14.2 commercial properties
- 14.3 DSF properties
- 14.4 impermissible rates property;
- 14.5 industrial properties
- 14.6 mining;
- 14.7 public benefit organisation property;
- 14.8 public service infrastructure;
- 14.9 residential property;

- 14.10 rural communal property;
- 14.11 sectional title garages (separately registered)
- 14.12 small home business;
- 14.13 unauthorized use property;
- 14.14 vacant land;
- 14.15 other property

PART 3: LIMITATIONS OF LEVYING OF RATES

15. CONSTITUTIONALLY IMPERMISSIBLE RATES

The Municipality acknowledges that it may not levy rates on property in a way that would materially and unreasonably prejudice national economic policies, economic activities across its boundary or the national mobility of goods, services, capital or labour as provided for in section 229(2)(a) of the Constitution.

16. OTHER IMPERMISSIBLE RATES

16.1.1 The Municipality shall not levy a rate on those parts of a special nature reserve, national park or nature reserve within the meaning of the National Environmental Management: 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.

16.1.2 In respect of subsection (a), the exclusion from rates shall lapse if the declaration of that property as a special nature reserve, national park, nature reserve or national botanical garden, or as part of such reserve, park, or botanical garden, is withdrawn in terms of the applicable Act.

- 16.1.3 The Municipality may levy a rate on those portions of a protected area and/or national botanical garden that are developed or used for business, commercial, agricultural or residential purposes.
- 16.1.4 In order to determine whether the exclusion from rates lapses in respect of the properties mentioned in subsection (16.1.1), the Municipality shall refer to the register to be provided by the Department of Environmental Affairs entitled "Register of Protected Area", containing a list of all protected areas, the name of the Municipality where the protected area is located, cadastral boundaries, the kind of protected area in each case, the date of declaration and withdrawal. The register will be updated annually and forwarded to Municipalities.
- 16.2.1 The Municipality shall not levy a rate on a property registered in the name of and used primarily as a place of public worship by a religious organisation, including an official residence registered in the name of that organisation which is occupied by an office-bearer of that organisation who officiates at services at that place of public worship.
- 16.2.2 In respect of the exclusion from rates on a property registered in the name of, and used primarily as a place of public worship by, a religious organisation, the Municipality regards the religious organisation as a non-profit making entity regarding the use of the property. Therefore, any deviation from this principle shall automatically disqualify the religious organisation from enjoying the benefits conferred by the Act.
- 16.2.3 The principle stated in subsection (16.2.2) shall also apply where a property in the ownership of one religious organisation is used by another religious organisation. In that case, if any money changes hands between the two religious organisations, such money should be limited to settlements of municipal financial obligations such as payments for user service charges, e.g., on water, electricity, refuse removal and the like.
- 16.2.4 In the case of a property owned by a non-religious entity or organisation, but made available to a religious organisation for use as a place of public worship, such non-religious entity or organisation shall be liable for payment of rates on such property.

- 16.2.5 Where a religious organisation enjoys the benefit afforded by the Act and the property is disposed of by the religious organisation owning it, the benefit shall lapse and rates on such property shall become payable.
- 16.2.6 Similarly, where the property is no longer used primarily as a place of public worship or, in the case of an official residence registered in the name of that organisation, where such residence is no longer used as a residence by the office-bearer who officiates at services at that place of worship, the exclusion from rates in respect of those properties shall lapse.
- 16.3. The Municipality shall not levy a rate on mineral rights within the meaning of paragraph (b) of the definition of “property” in section 1.
- 16.4 The Municipality shall not levy a rate on a property belonging to a land reform beneficiary or his or heirs, provided that this exclusion shall lapse ten years from the date on which such beneficiary’s title was registered in the office of the Registrar of Deeds.
- 16.5 In respect of properties assigned in the valuation roll to a category determined by the municipality for residential purposes, the rates levied shall be calculated on the market value of the property less an amount of R 15 000; plus any additional amount as resolved by Council at the time of the annual budget.
- 16.6 The Municipality shall not levy a rate on the first 30% of the market value of public service infrastructure.

17. PRIMARY REBATES PER CATEGORY OF PROPERTY

The Municipality may by resolution grant a rebate on the rate payable on the following categories of rateable properties -

- 17.1 agricultural property;
- 17.2 commercial property
- 17.3 DSF properties

- 17.4 industrial property
- 17.5 mining;
- 17.6 public benefit organisation property;
- 17.7 public service infrastructure;
- 17.8 residential property;
- 17.9 rural communal property;
- 17.10 sectional title garages (separately registered)
- 17.11 small home business;
- 17.12 other property

The Municipality shall in each financial year determine the amount of the rebate to be granted to each of the categories specified in subsection (1).

18. REBATES PER CATEGORY OF OWNER

- 18.1 The Municipality may grant a rebate on a property owned and occupied by the Msunduzi Municipality.
- 18.2 The Municipality may grant a rebate on a property whose owner is a receipt of an old age pension or disability grant, provided that the applicant satisfies all the criteria for such rebate. The rebate will lapse on the death of any applicant.
- 18.3 The Municipality may grant a rebate 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 and where all other criteria for the rebate are met.
- 18.4 The Municipality may grant a rebate on a rateable property which has been listed under the Municipality's Town Planning Scheme, provided that the owner of such property qualifies in terms of the criteria for this rebate.

- 18.5 The Municipality may grant a rebate to developers who own property and install the necessary infrastructure for the development of the vacant 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 as may be determined by the Municipality.
- 18.6 A rebate granted on the rate payable on any property referred to in sections 18.2 – 18.5, inclusive, is conditional upon there being no outstanding rates or service charges owing and payable on such property except to an owner who is in receipt of an old age pension, disability grant or child headed household, provided that an arrangement in terms of the credit control policy for any arrears is in place, and is being maintained.
- 18.7 No rebate will be granted to any developer as envisaged in 18.5 above, who has previously received a business concession or development incentive from Council for any part of the development.

PART 4 : ADDITIONAL RATES

19. ADDITIONAL RATES FOR SPECIAL RATING AREAS

- 19.1 The Municipal Council may by resolution of its council –
- 19.1.1 determine an area within the Municipality as a special rating area;
- 19.1.2 levy an additional rate on the property in that area for the purpose of raising funds for improving or upgrading that area; and
- 19.1.3 Differentiate between categories of properties when levying an additional rate referred to in paragraph 20.1.2

19.2 Before determining a special rating area the Municipality must -

19.2.1 Consult the affected community on the proposed boundaries on the following matters

19.2.1.1 The proposed boundaries of the area; and

19.2.1.2 The proposed improvement or upgrading of the area; and

19.2.2 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.

19.3 When a municipality determines a special rating area, the Municipality –

19.3.1 must determine the boundaries of the area;

19.3.2 must indicate how the area is to be improved or upgraded by funds derived from the additional rate;

19.3.3 must establish separate accounting and other record- keeping systems regarding –

19.3.3.1 the revenue generated by the additional rate; and

19.3.3.2 the improvement and upgrading of the area; and

19.3.4 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.

- 19.4 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
- 19.5 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.
- 19.6 The municipality may enact By-Laws to further regulate special rating areas.

PART 5: LIABILITY FOR RATES

20 PROPERTY RATES PAYABLE BY OWNERS

- 20.1 A rate levied on a property shall be paid by the owner of that property.
- 20.2 Where a property is owned jointly the owners shall be jointly and severally liable for the payment of the rates on such property.
- 20.3 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

20.4.1 Council buildings and land let to individual tenants, involving separately registered subdivisions, shall be shown separately in the valuation roll and shall be valued at market value.

20.4.2 In respect of a Council building where multiple tenancies occur, the entire building shall be valued at market value, based on a pro rata portion of the market value, calculated by lettable area.

21. PAYMENT OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES

21.1 A rate levied by the Municipality on a sectional title unit is payable by the owner of the unit and not by the body corporate controlling the sectional title scheme; provided that this will be applicable only after the first valuation roll of the Municipality has been prepared in terms of the Act.

21.2 Where a sectional title scheme is in the course of development, the undeveloped portion of the property shall be valued and separately rated and the rates on such undeveloped portion shall be paid by the body corporate.

21.3 The common property in a sectional title scheme shall not be valued or rated.

22. METHOD AND TIME OF PAYMENT

22.1 The Municipality shall recover rates on a monthly basis.

22.2 Rates shall be paid in each month on or before a date determined by the Municipality.

22.3. The final date for the payment of rates, as determined by the Municipality in terms of subsection (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.

22.3.2 If the result of any objection or appeal is that the valuation is –

22.3.2.1 unchanged, the Municipality may collect any penalty that may have accrued to it in terms of section 26

22.3.2.2 adjusted downwards, the Municipality shall only collect such penalty on the rates due on such reduced valuation and any over-payment that may have been made shall be refunded;

22.3.2.3 adjusted upwards, the Municipality shall, in addition to collecting such penalty on the rates due on the valuation before the objection or appeal, also collect such penalty charges on the additional amount of rates due in consequence of such upward adjustment, which remains unpaid after the date specified for payment thereof in a notice served by the Municipal Manager, or his authorized representative, on the person liable for the payment of the rates.

23. ACCOUNTS TO BE FURNISHED

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

23.1.1 the amount due for rates payable;

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

- 23.1.3 how the amount was calculated;
 - 23.1.4 the market value of the property;
 - 23.1.5 if the property is subject to any compulsory phasing-in discount in terms of section 21 of the Act, the amount of the discount;
 - 23.1.6 if the property is subject to any additional rate in terms of section 22 of the Act, the amount due for additional rates.
- 23.2 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.
- 23.3 Any notice which the municipality is required to give in terms of section 23.1 of this policy shall be deemed to have been properly given -
- 23.3.1 if it has been sent by pre-paid post -
 - 23.3.1.1 to an address notified in terms of subsection 23.2 of this policy;
 - 23.3.1.2 if subparagraph 24.3.1.1 does not apply and the property is not vacant land, to the address of the property shown in the valuation roll; or
 - 23.3.1.3 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 23.3.1.1 and 23.3.1.2 of this policy do not apply or if any notice posted in terms of the said subparagraphs has been returned as undelivered;
 - 23.3.2 if it has in fact come to the notice of the person to whom it is required to be given;

23.3.3 if paragraphs 23.3.1 and 23.3.2 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;

23.4 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 23.3.

23.5 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 25 of this policy;

23.5.2 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.

23.5.3 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;

23.5.4 A change of address referred to in 23.5.3 above shall take effect on receipt thereof by the Municipality;

23.5.5 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.

24. RECOVERY OF ARREAR RATES

- 24.1 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.
- 24.2 A letter of demand shall be sent to the owner if the account is 60 days or more in arrears.
- 24.3 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.
- 24.4 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.
- 24.5 If the rates remain unpaid in terms of 24.4 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 accrued in respect of the date of such sale together with the costs of obtaining the said order.
- 24.6 If before the sale of any rateable property in terms of an order made under subsection 24.5 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 and penalty charges have been paid, the said property shall be withdrawn from the sale.

- 24.7 Notwithstanding that all outstanding and arrear rates penalty charges 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.

25. INTEREST AND COLLECTION CHARGES

- 25.1 Interest will be charged on all rates arrears in terms of the Municipal Finance Management Act and the Municipal Systems Act.
- 25.2 In addition to interest charged in respect of any property, collection charges shall accrue as follows:
- 25.2.1 As from the last working day referred to in section 24.4 of this policy, an amount representing ten per cent (10%) of the capital amount of the rates then in arrear in terms of Section 75 (1) A of the Municipal Systems Act;
- 25.2.2 On the grant of a court order in terms of section 24.5 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 75 (1) A of the Municipal Systems Act.
- 25.3 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.

26. RESTRAINT ON THE TRANSFER OF PROPERTY AND REVENUE CLEARANCE CERTIFICATES

- 26.1 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.”

- 26.2 The provisions of section 118 of the Systems Act shall be strictly adhered to at all times.
- 26.3 Only applications completed in full on the prescribed form, received from a bona fide conveyance, State Department or Municipal Department and accompanied by the prescribed fee as recorded in the tariff register will be processed.
- 26.4 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.
- 26.5 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.
- 26.6 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.

- 26.7 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.
- 26.8 Where any amendments to the value or use have been found whether authorized or not, the rates on the amended value or use must be paid and the current rates will be charged at the enhanced value and/or category amendment.

27. DATE OF VALUATION

- 27.1 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.
- 27.2 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.

28 SUPPLEMENTARY VALUATIONS AND INTERIM RATES ADJUSTMENTS

- 28.1 In terms of Section 78 of the 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; 20

(c) subdivided or consolidated after the last general valuation;

(d) of which the market value has substantially increased or decreased for any

(e) substantially incorrectly valued during the last general valuation; or

(f i that must be revalued for any other exceptional reason. 25

reason after the last general valuation;

(4) Rates on a property based on the valuation of that property in a supplementary 40

valuation roll become payable with effect from -

(a) the effective date of the supplementary roll, in the case of a property referred

to in subsection (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 subsection (1) (b); 45

(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); or

(d) the date on which the event referred to in subsection (1) (d) has occurred.”

28.2 Notwithstanding the above any adjustment made in Terms of Section 78 shall be limited to the current plus three additional years, and shall be paid within 90 days of the billing thereof where after normal interest rates shall apply.

29 **BY-LAWS TO BE ADOPTED**

29.1 By-laws shall be adopted to give effect to the Council’s Rates Policy.

29.2 By laws in terms of 29.1 above may differentiate between

29.2.1 different categories of properties; and

29.2.2 different categories of owners of properties liable for the payment of rates.

29.3 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).

30 ENFORCEMENT OF OTHER LEGISLATION

30.1 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.

30.2 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 consistency can be established.

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

EFFECTIVE DATE

The effective date of this policy shall be.....

