

## RATES BYLAWS FOR THE CITY OF UMHLATHUZE

Be it enacted by the Council of the uMhlathuze Municipality, in terms of section 156(2) of the Constitution, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), and section 6 of the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004), as follows:

### 1. DEFINITIONS

In these bylaws, unless the context indicates otherwise –

**“agricultural property”** means land zoned for agricultural purposes in excess of two hectares;

**“annually”** means once every financial year;

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

**“category”** –

- (a) in relation to property, means a category of property determined in terms of section 4 of these bylaws;
- (b) in relation to owners of property, means a category of owners of property determined in terms of section 7 of these bylaws;

**“exemption”** in relation to the payment of a rate, means an exemption granted in terms of section 7 of these bylaws;

**“industrial”** means a branch of trade or manufacturing, production assembling or processing of finished or partially finished products from raw materials or fabricated part, on so large scale that capital and labour are significantly involved.

**“land tenure right”** means an old order right or a new order right as defined in section 1 of the Communal Land Rights Act, 2004 (Act No 11 of 2004);

**“multiple purposes”**, in relation to property, means the use of property for more than one purpose;

**“municipal council”** or **“council”** means the uMhlathuze municipal council, a council referred to in section 18 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998);

**“municipal properties”** means those properties of which the municipality is the owner.

**“municipality”** means the uMhlathuze Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998), read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No 7 of 2000).

**“owner”** –

- (a) in relation to property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) 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;
- (c) 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 provided that a person mentioned below will for the purposes of these bylaws be regarded by the municipality as the owner of the property in the following cases –
  - (i) a trustee, in the case of a property in a trust excluding State trust land;
  - (ii) an executor or administrator, in the case of property in a deceased estate;
  - (iii) a trustee or liquidator, in the case of property in an insolvent estate or in liquidation;
  - (iv) a judicial manager, in the case of property in the estate of a person under judicial management;
  - (v) a curator, in the case of property in the estate of a person under curatorship;
  - (vi) an usufructuary or other person in whose name a usufruct or other personal servitude is registered, in the case of property that is subject to a usufruct or other personal servitude;
  - (vii) a lessee, in the case of a property that it registered in the name of the municipality and is leased by it; or
  - (viii) 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;

**“permitted use”**, in relation to property, means the limited purposes for which the property may be used in terms of –

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

**“property”** means –

- (a) 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;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public service infrastructure.

**“property register”** means a register of properties referred to in section 23 of the Act;

**“protected area”** means an area that is or has to be listed in the register referred to in section 10 of the National Environmental: Protected Areas Act, 2003 (Act No 57 of 2003);

**“Public Benefits Organisation”** means an organisation conducting specified public benefit activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act

**“publicly controlled”** means owned or otherwise under the control of an organ of state, including –

- (a) a public entity listed in the Public Finance Management Act, 1999 (Act No 1 of 1999);
- (b) a municipality; or
- (c) a municipal entity as defined in the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);

**“public service infrastructure”** means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across the municipal boundary;
- (b) 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;
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;

- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigation aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) rights of way, easements or servitudes in connection with infrastructure mention in paragraphs (a) to (i).

**"rate"** means a municipal rate on property envisaged in section 229(1)(a) of the Constitution, 1996;

**"rateable property"** means property on which a municipality may in terms of section 2 of the Act levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act;

**"ratepayer"** means a person or entity that is liable in terms of the Act for the payment of rates on property levied;

**"rebate"**, in relation to a rate payable on property, means a discount in the amount of the rate payable on the property granted in terms of these by-laws;

**"reduction"**, in relation to a rate payable on property, means the lowering of the amount for which the property was valued and the rating of the property at that lower amount granted in terms of these by-laws;

**"residential property"** means improved property that is:

- (a) used for residential purposes only, with not more than two dwelling units per property, and includes any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. (Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes.), or
- (b) a unit registered in terms of the Sectional Titles Act, used predominantly for residential purposes, and includes any unit in the same Sectional Title Scheme registered in the name of the same owner, which is used together with the residential unit as if it were one property, for example a garage or servant's quarters. (Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes); or
- (c) owned by a share-block company and used solely for residential purposes.

The following properties are specifically excluded from the definition of residential property:

A hotel, commune, boarding and undertaking, old age homes, guesthouses, retirement villages, life right schemes and residential properties with other permitted use.

**“sectional title scheme”** means a scheme as defined in section 1 of the Sectional Titles Act;

**“sectional title unit”** means a unit as defined in section 1 of the Sectional Titles Act;

**“specified public benefit activity”** means an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act, 1962 (Act No 58 of 1962);

**“the Sectional Titles Act”** means the Sectional Titles Act, 1986 (Act No 95 of 1986);

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

**“vacant land”** means land where no immovable improvements have been

**“developed”** means in the case of properties in process of construction:  
The Valuer will determine as developed by using the following guideline -

- The roof completed, and some windows and doors installed

Or

- Any partial occupation on the property

## **2. RATES POLICY**

- (1) The municipal council must, by resolution, adopt a policy on the levying of rates on rateable property in the municipality.
- (2) The rates policy adopted by the municipal council in terms of section 2(1) must comply with the provisions of the Act.
- (3) The municipality must levy rates in accordance with the Act, these by-laws and the rates policy adopted by the municipal council in terms of section 2(1).

## **3. PRINCIPLES**

The rates policy adopted by the municipal council must comply with the following principles –

- (1) All ratepayers within a specific category, as determined by the municipal council from time to time, must be treated equitably.
- (2) A fair and transparent system of exemptions, rebates and reductions must be adopted and implemented by the municipality.
- (3) Relief measures in respect of the payment of rates may not be granted on an individual basis, other than by way of exemption, rebate or reduction.
- (4) Exemptions, rebates and reductions must be used to alleviate the rates burden on certain categories of owners and certain categories of property.
- (5) Provision must be made for the promotion of local, social and economic development.

#### **4. CATEGORIES OF PROPERTIES FOR THE PURPOSE OF LEVYING DIFFERENT RATES**

- (1) In determining whether a property forms part of a particular category, the actual use of the property will be the determining factor and any change in actual use of a property will result in a change of category. In the case of residential properties with permitted use in terms of any other legislation, the permitted use will determine the category.
- (2) In the case of vacant land, the permitted use in terms of any legislation, including any town and land use management system will determine its category. In the absence of such legislation, which regulates the use of properties, the most feasible use will determine its category.
- (3) The municipality determines categories of properties based on the use of the property and of the permitted use of the property.
- (4) The Municipality does not value Real Rights except Public Service Infrastructure, Municipal Leases and Developers Rights of Extension in Sectional Title Schemes.

#### **5. RATING OF MULTIPLE USE PROPERTIES**

- (1) Dominant use of multi purpose properties shall be measured as the higher of either:
  - (a) The measured extent under use (land and/or buildings),
  - or
  - (b) The gross rental value of the area under use (land and/or buildings).

#### **6. DIFFERENT CATEGORIES PAY DIFFERENT RATES**

Different categories of properties as contemplated in Section 4 of these bylaws may be levied a different rate (cent in the rand). This differentiation may be determined annually by the municipal council during the budget review process.

#### **7. CATEGORIES OF OWNERS OF PROPERTIES THAT WILL RECEIVE EXEMPTIONS OR REBATES**

The following category of owners of properties will receive exemptions or rebates:

- (1) Owners dependent on pensions and social grants
  - (a) The rebate applicable to property owners who are dependent on pensions and social grants will be determined annually by the municipal council during the budget review process.
  - (b) The rebate on property rates referred to in section 7(1)(a) will be granted according to criteria determined by Council.
- (2) Public benefit organisations

- (a) Property Rates will be levied in accordance with the Amendment of the Municipal Property Rates Regulations as published in Government Notice Number R. 363 of 27 March 2009.
  - (b) Public Benefit Organisations performing a specific public benefit activity and registered in terms of the Income Tax Act, Item 1, 2 and 4 of part 1 of the Ninth Schedule, for tax deduction because of those activities.
  - (c) Applicants must provide credible proof to the satisfaction of the Chief Financial Officer or his delegate that they comply with the criteria and requirements determined by Council.
- (3) Place of public worship by a religious community

A 100% rates exemption shall be applied:

- (a) On a property registered in the name of and used primarily as a place of public worship and educational purposes 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 in terms of section 17(1)(i) of the Act.
  - (b) This also applies to a vacant property registered in the name of and used primarily as a place of worship by a religious community.
- (4) Indigent owners
- (a) In terms of the Act, measures to alleviate the rates burden of the poor shall be adopted.
  - (b) The Universal Relief Approach as contained in the uMhlatuze Municipality's Indigent Policy will be applied as defined hereunder:
    - (i) Council may grant an additional amount in value above the impermissible value as stipulated in the Municipal Property Rates Act, 2004 (Act No 6 of 2004) on which no rates will be applied. This determination shall be made annually during the budget review process.
    - (ii) The reduction will be applied only to a property that is developed and used solely for residential purposes.

(5) Non Profit Organisations & Independent schools

In terms of Section 15(1) of the MPRA, an exemption may be granted to Non Profit organisations that qualify for exemption as determined hereunder. This extent of the exemption will be determined annually during the budget review process.

- A Tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Item 1, 2 and 4 of Part 1 of the Ninth

Schedule of the Income Tax Act, 1962 (No 58 of 1962) must be submitted together with the application for relief;

- A Certified copy of Registration as a Non-Profit Organization with the Department of Social Welfare must be submitted and applicant must be on the current year NPO Register as at 31 May;
- Independent schools must have a uniquely allocated education management information system(emis) number and must for the previous financial year provide proof that it received a subsidy from the relevant provincial department of education(at least the majority, 60% and more, of the sources of funding be from a combination of one or more government grants)

## **8. CATEGORIES OF PROPERTIES THAT WILL RECEIVE EXEMPTIONS, REBATES OR REDUCTIONS**

Notwithstanding any specific provision contained herein, the municipal council may during its annual budget process determine the upper limits or the extent of exemption, reduction or rebate for any of the following categories:

### **(1) Disaster Management**

- (a) A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act will be granted where the value of a property is affected by fire damage, demolishment, floods, drought or other natural disasters.
- (b) The reduced valuation shall be applied from the start of the financial year following the evaluation.
- (c) The reduction shall be in relation to the certificate issued for this purpose by the municipal valuer.

### **(2) Property of land reform beneficiaries**

- (a) Property rates on land of land reform beneficiaries shall be phased in as prescribed in the Municipal Property Rates Act, 2004 (Act No 6 of 2004).
- (b) The properties referred to in subsection (a) must have been acquired through the Provision of Land and Assistance Act, 1993 (Act No 126 of 1993) or the Restitution of Land Rights Act, 1994 (Act No 22 of 1994) or subject to the Communal Property Associations Act, 1996 (Act No 28 of 1996) or communal land as defined in section 1 of the Communal Land Rights Act, 2004 (Act No 11 of 2004).

### **(3) Agricultural properties**

- (a) The municipal council may apply an additional rebate on agricultural land. When considering the criteria to be applied in respect of any exemptions, rebates and reductions on properties used for agricultural purposes, the municipal council shall take into account:
  - (i) the extent of services provided by the municipality in respect of such properties;
  - (ii) the contribution of agriculture to the local economy;



- (iii) the extent to which agriculture assists in meeting the service delivery and development obligations of the municipality; and
  - (iv) the contribution of agriculture to the social and economic welfare of farm workers.
- (b) The rebate shall be determined annually during the budget review process according to criteria determined by the municipal council.
- (c) Agricultural and land used for activities other than bona fide agricultural purposes do not qualify for any rebates or valuations reductions.
- (4) Public service infrastructure providing essential services
 

Exemptions, rebates and/or reductions will be determined in accordance with applicable legislation such as the Act and Regulations issued in terms of the Act.
- (5) Municipal properties
  - (a) Municipal properties will be exempted.
  - (b) Municipal properties that are leased or rented out will be rated in accordance with the provisions of the Act.
- (6) Historical monuments
 

Historical monuments not used for residential purposes and registered in the name of private persons, open to the public and not operated for gain shall not be rated.
- (7) Sporting bodies
  - (a) Sporting bodies shall, on application, be rated on the value of the improved area only.
  - (b) The improved area shall exclude change rooms and store rooms necessary for the sport.

## **9. MANAGEMENT OF PROPERTY RATES IMPACT**

- (1) The Municipality shall take into account that with the first implementation of the new valuation roll, certain properties will be subject to a higher increase than others and that rates on certain properties will decrease.
- (2) During the budget process the municipal council will attempt to limit the rates shock to property owners due to the increase in the rate payable on their properties as a result of the compilation and implementation of the new valuation roll.
- (3) The limit in the increase in rates payable will be determined by the municipal council within the limits as prescribed by the National or Provincial Government.

## **10. CRITERIA FOR INCREASING OF RATES**

- (1) The municipal council will consider increasing rates annually during the budget process in terms of the guidelines issued by the National and Provincial Government from time to time.
- (2) The following may be taken into account for the purpose of increasing/decreasing rates:
  - (a) Priorities of the municipality reflected in its Integrated Development Plan.
  - (b) Rate increases will be used to finance the increase in operating costs of community and subsidised services.
  - (c) All salary and wage increases as agreed at the South African Local Government Bargaining Council.
  - (d) An inflation adjustment for general expenditure, repairs and maintenance and contributions to statutory funds.
  - (e) Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.
  - (f) A need for management of rates shocks.
  - (g) Affordability of rates to ratepayers.
  - (h) Extraordinary expenditure related to community services not foreseen during the previous budget period and approved by the council during a budget review process.

## **11. POWER TO LEVY RATES**

Council must exercise its power to levy a rate on property subject to the provisions of the Constitution, the Act and the municipality's approved rates policy.

## **12. PAYMENT OF RATES**

- (1) The municipality will give notice in the local press of all rates approved at the annual budget meeting, at least 30 days prior to the date that the rates become effective.
- (2) A notice stating the purport of the municipality's resolution and the date on which the new rates become operational will be displayed by the municipality on its notice boards and where possible, at places utilised for that purpose.
- (3) Payment of rates:
  - (a) Rates must be paid in monthly installments on the due date stipulated on the statement of each month.
  - (b) Owners of property may apply in writing annually before commencement of the financial year, to pay the rates in one installment on the last working day of September of that financial year.

- (c) All rates that remain unpaid after the due date stipulated on the account will be collected through the provisions contained in the municipality's Credit Control Policy or any applicable legislation.
- (4) Interest on arrear rates shall be calculated at the rate determined by the municipal council during its annual budget review process.
- (5) Arrear rates shall be recovered from owners and/or tenants, occupiers and agents of the owner, in terms of section 28 and 29 of the Act.
- (6) Joint owners of a property, including joint owners of agricultural property are jointly and severally liable for the amount due for rates on that property.

### **13. ANNUAL REVIEW OF RATES POLICY**

The municipality's Rates Policy will be reviewed on an annual basis during the budget process to ensure that it complies with the municipality's strategic objectives and legislation, and will take into account public comments and inputs.

### **14. THE EFFECTIVE DATE OF THE RATES POLICY**

The Rates Policy takes effect from the start of the municipal financial year when the new valuation roll is implemented on 1 July 2008.

### **15. SHORT TITLE**

These bylaws will be called the Rates Bylaws for the uMhlathuze Municipality.

### **16. COMMENCEMENT**

These bylaws come into force and effect on 1 July 2008.