

RATES POLICY
MOGALAKWENA MUNICIPALITY



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MOGALAKWENA MUNICIPALITY

RATES POLICY

1 July 2010 – 30 June 2011

NOTE:

1. This policy is the result of
 - an interpretive desk top study of applicable legislation,
 - A public meeting held on 1 April 2005.
 - 3 public meetings held on 14 November 2006.
 - A workshop with councillors and officials on 19 March 2007.

2. This policy serves as a discussion document for consideration by the Council of Mogalakwena Municipality.

1. **NOTE:**

A new valuation roll has been compiled in terms of the Local Government: Municipal Property Rates Act, No. 6 of 2004 (the MPRA).

2. INTRODUCTION

In terms of section 229 of the Constitution of the Republic of South Africa, 1996 (the Constitution), a municipality may impose rates on property.

When imposing rates on property a municipality may not exercise that power in a way that materially and unreasonably prejudices national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital or labour.

Section 3(1) of the Local Government Municipal Property Rates Act, 2004 (Act 6 of 2004) (MPRA), and section 62(1)(f) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA), provide that a municipality should adopt and implement a policy on the levying of rates on rateable property.

This document sets out the policy of the Mogalakwena Municipality on the levying of rates on rateable property. In applying its rates policy, the Municipality will meet all the requirements of the MPRA and MFMA, including any regulations made under these Acts.

The Municipality will, as part of each annual operating budget process, impose a rate in the Rand on the market value of all rateable properties as recorded in the Municipality's valuation roll or supplementary valuation roll(s). Rateable property includes any rights registered against the property, with the exception of a mortgage bond. Generally, all land within a municipal area is rateable unless it is specifically exempted in terms of section 15 of the MPRA. Such exemptions apply *inter alia* to certain cultural organisations, amateur sports grounds and properties owned by welfare organisations. The municipality must, in accordance with section 3 of the MPRA, adopt a rates policy that sets out the broad policy framework within which the municipality rates its area and must, in accordance with section 5 of the MPRA, review and, if necessary, amend its rates policy annually.

3. DEFINITIONS

In this policy, unless the context indicates otherwise –

“business”, in relation to property, means the use of property for the activity of buying, selling or trading in goods or services on a property and includes any office or other accommodation on the same property, the use of which is incidental to such activity, but does not include the business of agriculture, farming, or any other business consisting of the cultivation of soils, the gathering in of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic organisms;

“government”, in relation to property, means property owned and exclusively used by an organ of state, [but does not refer to any non-urban land owned by an organ of state and used for residential or agricultural purposes or not in use];

“Illegal use” means the use of a property in a manner that is inconsistent with or in contravention of the permitted use of the property, whether in terms of the title deed of the property or in terms of the applicable town planning scheme;

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

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

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

NOTE:

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

1. If the total gross monthly income of all the members of the household does not exceed the equivalent of 2 (two) government old age pensions or disability grants as determined from time to time.
2. If the applicant as well as any other member of the household does not own other fixed property than the one on which they reside.
3. If the improved municipal value of the property on which the household resides does not exceed the current construction cost of an RDP house (currently approximately R35 000 [thirty five thousand Rand]). (This could be higher or lower, but note that it is impermissible to impose rates on the first R15 000 of residential properties. [Section 17(1)(h)].
4. The applicant is subject to limited levels of service.

If it is established that the indigent debtor disclosed or withheld certain information, all benefits which were accorded to the indigent debtor upon registration, will be written back to the services account and appropriate legal action to recover the monies will be instituted.

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

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

“Municipality”, means the Municipality of Mogalakwena.

“multiple purposes”, in relation to property, means the use of a property for more than one purpose and the property thus not being assigned to a single category of properties and, where one use represents on average 90% or more of the property’s value, the property is rated as though it were used for that use only. This definition is only applicable to property defined as “urban land”;

“Non-urban land” means land that is not situated in a proclaimed township, but that is used for residential or agricultural purposes or is not in use. Where the whole or a portion of non-urban land is used for business, industrial or mining purposes, the market value of such land or portion of it, must be recorded separately in the valuation roll and rated according to the applicable category;

“remainder of township” means the remaining extent of a proclaimed township as held by the township owner in its own name and on land on which no immovable improvements, except for public services infrastructure, have been erected;

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

“Urban land” means land that is situated within a proclaimed township; and

“Vacant land” means –

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

4. CONSIDERATION OF MATTERS

In determining the rates, exemptions, rebates and reductions, the Municipality has considered the following:

- the impact of the rates on the community;

- the impact of the rates on businesses;
- the impact of rates on the farming community;
- the current economic climate;
- the integrated development plan (IDP) of the Municipality;
- the prevention of major shocks to ratepayers when moving from a site rating system to a system based on a rating on the total value (land and buildings) of a property.

5. ANNUAL ADOPTION OF THE POLICY

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

The rates policy will be approved with the annual budget in compliance with section 24(2)(c)(i) of the MFMA.

The rates policy will be available for perusal, free of charge, at –

- (i) The Municipality's pay points;
- (ii) Municipal libraries;
- (iii) Customer Care Centres of the Municipality;

Copies of the rates policy will be available for purchase at all the pay points at the applicable charge, as determined by the Municipality from time to time.

6. KEY PRINCIPLES

6.1 Equity

Equity is the concept that a rate will be fair to the ratepayer and that each ratepayer will be rated fairly relative to other ratepayers. The fundamental principle is that ratepayers in similar circumstances will pay similar amounts of rates and ratepayers

with a greater ability to pay, as reflected by the value of their properties, will pay greater amounts of rates.

It is assumed that the value of a ratepayer's property serves as an indicator of the ratepayer's ability to pay. However, the circumstances of an individual ratepayer are only taken into account when exemptions, rebates or reductions are to be granted. Rates are levied on an *ad valorem* (by value) basis, which is pro rata to the value of the property.

NOTE:

This is generally considered sufficient to meet the equity principle because two ratepayers with the same property values will pay the same amount of rates (excluding any exemptions, rebates and reductions). A ratepayer with a property that has a high value will pay proportionately more than a ratepayer with a property that has a lower value.

In the local government context, the application of the equity principle would suggest that the rate (the rate in the Rand) would be the same for all ratepayers in a municipal area, unless some compelling application of other taxation principles changes the incidence of the rates. The main reasons one ratepayer may pay a different rate than another ratepayer are:

- different rates levied on different categories;
- exemptions;
- rebates; and
- Reductions.

Although these mechanisms were created by the MPRA, their use should be justified. The main reason is to retain the historical level of contribution of the various categories of properties to the income from assessment rates and therefore minimise the impact on ratepayers.

6.2 Affordability

In considering affordability, the total municipal services account and not only the rates account will be considered. The Municipality will endeavour to link the annual

increase in revenue from property rates to the increase in the consumer price index (CPI), except when the approved Integrated Development Plan (IDP) of the Municipality provides for a greater increase.

6.3 Poverty alleviation

The effect of rates on the poor has been taken into account in the Municipality's policy on indigent debtors. All residential properties with a value below an amount to be determined during the budget process are exempted from assessment rates, which value will be approximately the cost of an RDP home.

6.4 Limitation of rates increases

The transformation from a site rating system to a system where the total value (land and buildings) is rated could cause major shifts in the rates burden on owners of certain properties.

Guidelines from national government are that the implementation of the MPRA should not lead to an onerous increase in income from assessment rates and it should also not result in major shocks to ratepayers. To give effect to these guidelines, it is necessary to set limits on the increase in rates for the financial years in which the first valuation roll prepared in terms of the MPRA is implemented.

7. AMOUNT DUE FOR RATES

The Municipality will, as part of each annual operating budget process, determine a rate in the Rand for every category of properties.

8. LIABILITY FOR RATES

- Rates levied by the Municipality on a property must be paid by the owner of the property. Rates will be levied monthly.
- If an amount due for rates is unpaid by the owner of the property, the Municipality may recover the amount from the tenant or occupier of the property. The amount due for rates may be recovered from the agent of the owner.

- Where the rates levied on a property are based on a supplementary valuation made in terms of section 78(1) of the MPRA, the rates are payable from one of the dates contemplated in section 78(4) of the MPRA.
- The recovery of rates by the Municipality will be in accordance with the Municipality's credit control and debt collection policy. (Section 96 of the Systems Act).

9. VALUATION OF RATEABLE PROPERTIES

- The Municipality will undertake a general valuation of all rateable properties and prepare a valuation roll every 4 (four) years. (Section 32(1)(b) of the MPRA). The first such valuation roll to be in respect of the 2008/9 financial year.
- Supplementary valuations to give effect to Section 78 of the MPRA will be undertaken on an ongoing basis and a supplementary valuation roll will be prepared once a year. (Section 77 of the MPRA).
- Amendments to the valuation roll to reflect changes to the owner, address, category, extent, description or other prescribed particulars will be made annually in accordance with section 79 of the MPRA, and only the electronic copy of the valuation roll will be updated.

10. LEVYING OF RATES

10.1 Property not rated

The rates impermissible in terms of Sections 16 and 17 of MPRA.

Section 16

Constitutionally impermissible rates include those that materially and unreasonably prejudice -

- (a) national economic policies;

- (b) economic activities across its boundaries; or
- (c) the national mobility of goods, services, capital or labour.

Section 17

- (a) the first 30% of public service infrastructure;
- (b) any part of the seashore; [not applicable]
- (c) any part of the territorial waters; [not applicable]
- (d) any islands; [not applicable]
- (e) special nature reserve, national park, or a national botanical garden;
- (f) mineral rights;
- (g) property belonging to a land reform beneficiary;
- (h) on the first R15 000 of a property assigned for residential purposes;
- (i) a place of public worship including an official residence owned by the relevant church and occupied by the religious officer.

Rates are not levied on the transportation corridors of public service infrastructure owned by the Municipality.

10.2 Categories

The category of property is determined by the actual use of the property, and if the property is not in use, the zoning determines the category. The municipal valuer is responsible for categorising properties and maintaining the categories, as any change in the use of a property may result in a change in category.

The Municipality has determined the following categories in terms of section 8(1) of the MPRA:

- (a) Residential (subject thereto that a permitted non-residential business activity may not exceed 10% (ten percent) of the area of the residence).
- (b) Industrial
- (c) Business and commercial
- (d) Farm properties used for
 - (i) agriculture
 - (ii) business and commercial properties

- (iii) ecotourism, game hunting or trading
- (e) farm properties not used for any purpose
- (f) agricultural holdings
- (g) Municipal
- (h) Public service infrastructure
- (i) State owned properties such as
 - (i) Schools
 - (ii) Hospitals and clinics
 - (iii) Police stations
 - (iv) Offices
- (j) Vacant urban land
- (k) Vacant non-urban land
- (l) Developed non-urban land
- (m) Illegal use
- (n) Multiple purposes
- (o) Privately owned towns
- (p) Mining and related uses
- (q) Formal and informal settlements
- (r) Remaining extent of proclaimed townships
- (s) State trust land
- (t) Communal land

10.3 Relief mechanisms (Rebates, reductions and exemptions)

The Municipality grants rebates, reductions and exemptions in recognition of the following factors:

- The need to accommodate indigent residents and less affluent pensioners,
- The services provided for the community by specified public service organisations,
- The value of agricultural activities to the local economy,
- The need to preserve the cultural heritage of the local community.

10.3.1 Rebates

When a specific category of owners of properties or the owners of a specific category of properties qualify for more than one rebate at a given time, the next rebate is calculated on the previously rebated rates amount payable. The order in which the rebates are calculated is as follows:

(a) Rebate for indigent debtors

The rebate is as determined by the Municipality's policy on indigent debtors. (Refer also to the definition of "indigent debtor".)

(b) Rebate to limit the increase in rates

Note:

This is not related to the provisions of Section 21 of the MPRA regarding the compulsory phasing in of rates.

The rebate to limit the increase in rates when moving from the site rating system to the system of rating the total value of the property and in the event of such increase being 40% (forty percent) or more (between the rates payable on 1 July 2008 and on the rates that were payable on 1 July 2007) – The property owner will pay the thirist 40% and the difference will be paid as follows:

- the limit for the additional increase above 40 % for the 2008/9 financial year will be 25% of the difference.
- the limit for the additional increase above 40 % for the 2009/10 financial year will be 50% of the difference .
- the limit for the additional increase above 40 % for the 2010/11 financial year will be 75% of the difference ;

- as from the 2011/12 financial year, full rates will be payable.

This rebate does not apply to an increase in rates owing to a supplementary valuation made in terms of section 78(1) of the MPRA.

(c) Rebates for Residential Properties

The owner of a residential property will qualify for a rebate of 40% (forty percent) subject thereto -

- that the residential property has been developed by way of a habitable house;
- that the property is used for residential purposes, and
- that any alternative use permitted by way of a consent use granted by the Municipality in terms of its town planning scheme, shall not exceed 10% (ten percent) of the area of the house.

10.3.2 Reductions applicable to agricultural properties

(a) Reduction based on phasing-in discount

Section (21) (2) of MPRA The phasing-in discounting on a property referred to in subsection (1) (a) or (b) must-

- (a) In the first year, a rebate of 75% be granted;
- (b) In the second year, a rebate of 50% be granted,
- (c) In the third year , a rebate of 25% be granted;
- (d) In the fourth year 0% rebate be granted.

(b) Reduction based on contiguous pieces of land

Where two or more contiguous pieces of farm land are held and occupied by one owner, and together comprise an area the extent of which is at least 5 (five) hectares, such pieces of farm land will, for the purpose of this section, be deemed to constitute a single piece of farm land and will be rated in terms of subsection (a) on the aggregate of the values as reflected in the valuation or supplementary valuation rolls. The onus is on the owner of such property to inform the municipal manager or delegated official of the description of the properties.

10.3.3 Exemptions

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

- (a) any rateable property registered in the name of a welfare organisation registered in terms of the National Welfare Act, 1978 (Act 100 of 1978);
- (b) any hospital, health clinic or institution for mentally ill persons that is operated not with the intention to make profit and is registered for tax exemptions in terms of the Income Tax Act because of those activities,
- (c) any rateable property registered in the name of a public benefit organisation that carries out specified public benefit activities and is registered for tax exemptions in terms of the Income Tax Act because of those activities.
- (d) any museum, art gallery, library or botanical garden that is registered in the name of a private person and that is open to the public, whether admission is charged or not;
- (e) any national monument, including any ancillary business activity conducted at a national monument;
- (f) any rateable property registered in the name of a trustee or trustees or any organisation that is being maintained for the welfare of war veterans

as defined in section 1 of the Social Aid Act (House of Assembly), 1989 (Act 37 of 1989), and their families;

- (g) any sports grounds used for the purposes of amateur sport or any social activity connected with such sport;
- (h) any rateable property registered in the name of the Boy Scouts, Girl Guides, Sea Scouts, Voortrekkers or any organisation that is, in the opinion of the Municipality, similar thereto or any rateable property let by the Municipality to any such organisation;
- (i) any rateable property registered in the name of a declared institution as defined in section 1 of the Cultural Institutions Act, 1969 (Act 29 of 1969);
- (j) on the first R15 000 of the market value of any residential property, whether the property is improved or unimproved, and non-urban property on which the owner resides.
- (k) Any person who is the owner of a residential property and who -
 - (i) has reached the age of 65 years or more during the financial year; or
 - (ii) is physically or mentally disabled and can prove that he/she receives a social pension; or
 - (iii) is certified by a district medical officer or district medical officers, as the case may be, as being physically or mentally handicapped,

Subject to the following conditions:

- (aa) the joint income of that person and his/her spouse, if any, for the year ended 30 June may not exceed R40 450 (forty thousand four hundred and fifty Rand) per year or such higher amount as may be determined in the Municipality's budget;

- (bb) the rateable property in question may be occupied only by that person and his/her spouse, if any, and by dependants of that person who have no income, or by other people due to circumstances that, in the opinion of the Municipality's Chief Financial Officer, are specific to that person;
- (cc) there may not be more than one dwelling unit on the rateable property in question;
- (dd) the application for exemption from rates for the financial year must be received prior to 30 September of that financial year on a form made available for this purpose by the Municipality's Chief Financial Officer and the information provided in the application must be substantiated by an affidavit by the applicant;
- (ee) the applicant must submit proof of this/her age and identity and, in the case of a physically or mentally handicapped person, also proof the he/she receives a social pension or, if he/she does not receive a social pension, proof of certification by a district medical officer or district medical officers, as the case may be;
- (ff) the value of the rateable property in question, as reflected in the valuation roll or a supplementary valuation roll, may not exceed R250 000 on the person's first application;
- (gg) that person's current services account must be paid in full; and
- (hh) the rateable property in question must be categorised as residential;

The exemption in (a) to (k) will be granted after an application with all required documentation has been considered and approved by the Municipal Manager or delegated official.

11. DISCLAIMER

A rate cannot be challenged on the basis of non-compliance with the rates policy and must be paid in accordance with the required payment provisions.

Where a ratepayer believes that the Council has failed to properly apply the provisions of the rates policy, he/she raise the matter with the Municipal Manager of the Mogalakwena Municipality.

12. DELEGATION OF POWER

Save as otherwise provided for in this Property Rates Policy, the Chief Financial Officer of the Mogalakwena Municipality shall be empowered to apply and administer all powers pursuant thereto.