

# UBUHLEBEZWE MUNICIPALITY



## RATES POLICY

Adopted \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

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**DEFINITIONS**

Any words and phrases referred to in this policy shall have the same meaning and interpretation assigned in terms of the Municipal Property Rates Act 6 of 2004 (“the Act”) and for this purpose lists hereunder the definitions used in the Act.

In this Act, unless the context indicates otherwise—

“**Agent**”, in relation to the owner of a property, means a person appointed by the owner of the property—

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

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

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

“**Appeal board**” means a valuation appeal board established in terms of section 56;

“**Assistant municipal valuer**” means a person designated as an assistant municipal valuer in terms of section 35 (1) or (2);

“**Category**”—

- (a) in relation to property, means a category of properties determined in terms of section 8; and
- (b) in relation to owners of properties, means a category of owners determined in terms of section 15 (2);

“**data-collector**” means a person designated as a data-collector in terms of section 36;

“**Date of valuation**” means the date determined by a municipality in terms of section 31 (1);

“**District management area**” means a part of a district municipality which in terms of section 6 of the Municipal Structures Act has no local municipality and is governed by that municipality alone;

“**District municipality**” means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155 (1) of the Constitution as a category C municipality;

“**Effective date**”—

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

(b) 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);

**“Exclusion”**, in relation to a municipality’s rating power, means a restriction of that power as provided for in section 17;

**“Exemption”**, in relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15;

**“Financial year”** means the period starting from 1 July in a year to 30 June the next year;

**“Income Tax Act”** means the Income Tax Act, 1962 (Act No. 58 of 1962);

**“Land reform beneficiary”**, in relation to a property, means a person who—

(a) acquired the property through—

(i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or

(ii) The Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

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

(c) 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;

**“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;

**“Local community”**, in relation to a municipality—

(a) means that body of persons comprising—

(i) the residents of the municipality;

(ii) The ratepayers of the municipality;

(iii) Any civic organizations and non-governmental, private sector or labour organizations or bodies which are involved in local affairs within the municipality; and

(iv) Visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality; and

(b) includes, more specifically, the poor and other disadvantaged sections of such body of persons;

**“local municipality”** means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155 (1) of the Constitution as a category B municipality;

**“Market value”**, in relation to a property, means the value of the property determined in accordance with section 46;

**“MEC for local government”** means the member of the Executive Council of a province who is responsible for local government in that province;

**“Metropolitan municipality”** means a municipality that has exclusive executive and legislative authority in its area, and which is described in section 155 (1) of the Constitution as a category A municipality;

**“Minister”** means the Cabinet member responsible for local government;

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

**“Municipal council” or “council”** means a municipal council referred to in section 18 of the Municipal Structures Act;

**“Municipal Finance Management Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**“Municipality”**—

(a) as a corporate entity, means a municipality described in section 2 of the Municipal Systems Act; and

(b) as a geographical area, means a municipal area demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

**“Municipal manager”** means a person appointed in terms of section 82 of the Municipal Structures Act;

**“Municipal Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

**“Municipal valuer” or “valuer of a municipality”** means a person designated as a municipal valuer in terms of section 33 (1);

**“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—

(a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and

(b) a property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified;

**“Occupier”**, in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property;

**“Organ of state”** means an organ of state as defined in section 239 of the Constitution;

**“Owner”**—

- (a) 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;
- (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;  
or
- (d) 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:

- (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 a property in a deceased estate;
- (iii) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) A judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) A curator, in the case of a property in the estate of a person under curatorship;
- (vi) 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;
- (vii) A lessee, in the case of a property that is registered in the name of a 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 a property, means the limited purposes for which the property may be used in terms of—

- (a) any restrictions imposed by
  - (i) a condition of title;
  - (ii) A provision of a town planning or land use scheme; or

- (b) any legislation applicable to any specific property or properties; or
- (c) any alleviation of any such restrictions;

“**Person**” includes an organ of state;

“**Prescribe**” means prescribe by regulation in terms of section 83;

“**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;

“**Protected area**” means an area that is or has to be listed in the register referred to in section 10 of the Protected Areas Act;

“**Protected Areas Act**” means the National Environmental Management: Protected Areas Act, 2003;

“**Publicly controlled**” means owned by 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 Municipal Systems Act;

“**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 a 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;
- (d) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (e) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (f) railway lines forming part of a national railway system;
- (g) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (h) runways or aprons at national or provincial airports;

- (i) 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
- (j) lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (k) any other publicly controlled infrastructure as may be prescribed; or
- (l) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (l);

**“Rate”** means a municipal rate on property envisaged in section 229 (1) (a) of the Constitution;

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

**“Rebate”**, in relation to a rate payable on a property, means a discount granted in terms of section 15 on the amount of the rate payable on the property;

**“reduction”**, in relation to a rate payable on a property, means the lowering in terms of section 15 of the amount for which the property was valued and the rating of the property at that lower amount;

**“Register”**—

(a) means to record in a register in terms of—

- (I) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
- (II) The Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and

(b) includes any other formal act in terms of any other legislation to record—

- (I) a right to use land for or in connection with mining purposes; or
- (ii) A land tenure right;

**“Residential property”** means a property included in a valuation roll in terms of section 48 (2) (b) as residential;

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

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

**“Sectional title unit”** means a unit 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;

**“State trust land”** means land owned by the state—



- (a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- (b) over which land tenure rights were registered or granted; or
- (c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

“**This Act**” includes regulations made in terms of section 83.

- (a) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

### **Other Definitions**

“**Child headed household**” means any child who is or is a blood relative of the owner of the property and which child is responsible for the care of siblings or parents

“**Disabled**” means a person who qualifies to receive relief in terms of the Social Services Act, 1992 (Act No. 59 of 1992) or has been certified as disabled by a medical practitioner;

“**Indigent owner**” means an owner of property who is in permanent occupation of the property and qualifies for indigent relief in terms of the municipality’s indigent policy.

“**The Municipality**” means the **UBUHLEBEZWE** Municipality;

“**Owners of property in an area affected by a disaster**” means owners of property situated within an area affected by:

- (a) a disaster within the meaning of the **Disaster Management Act 57 of 2002**;
- (b) any other serious adverse social or economic conditions;

“**Pensioner**” means a person in receipt of a social pension; or

- (a) a person over the age of 60 years; or

A person who has retired prematurely from employment due to medical reasons

“**Retiree**” means a person who has retired from employment in terms of that person’s employment or who has reached the age of a pensioner;

“**Temporarily without income**” means;

- (a) In the case of an employee –

- (i) the period for which the person is entitled to benefits in terms of the Unemployment Insurance Act; or

- (ii) **60 days** (suggested 90 days) whichever is the longer; or

- (b) In any other case, a period of **60 days** (suggested 90 days) determined from the date of application by that person for relief in terms of the Municipality’s policy;

“**Non-profit organizations**” means any organization which is registered in terms of the Non- profit Organizations Act.

## **2. OBJECTIVES**

By developing and adopting this rates policy, the Council has sought to give effect to the sentiments expressed in preamble of the Municipality Rates Act, 2004. Namely that:

- The act allows Local government to develop in nature, in fulfilling its obligations of service delivery to its Community and promoting the Economy and Financial viability of our Municipality.
- The Local government must have sufficient access and strong source of Revenue that is necessary to fulfil its developmental responsibilities.
- Revenue derived from Property Rates will be used to fund services that benefit the community as a whole as opposed to individuals households, and these services include, but are not limited to, the maintenance of streets, roads, sidewalks, lighting, storm drainage facilities, takes account of historical imbalances and the burden of rates on the poor, recreation facilities, cemeteries as well as the municipal administration in general.

In applying its rates policy, the Council shall adhere to all the requirements of the Municipality Property Rates Act 2004, including any regulations promulgated in terms of that Act.

## **3. IMPOSITION OF RATES**

The Council shall as part of each annual operating budget component impose a rate in the rand on the market value of all rate able property as recorded in the municipality’s valuation roll and supplementary valuation roll. Rate able property shall include any rights registered against such property, with the exception of a mortgage bond.

The Council pledges itself to limit as far as possible each annual increase over the period proceeding the financial year to which the increase relates. The Council shall, in imposing the rate for each financial year, take proper cognizance of the aggregate burden of rates and service charges on representative property owners, in the various categories of property ownership.

## **4. REBATES ON RATES**

In imposing the rate in the rand for each annual operating budget component, the Council shall grant the following rebates to the categories of properties and categories of owners indicated below, but the Council reserves the right to amend these rebates if the circumstances of a particular annual budget so dictate.

Any exemptions, rebates or reductions granted and provided for in this rates policy, must comply and be implemented in accordance with a national framework that may be prescribed after consultation with organized local government.

No municipality may grant relief in respect of the payment of rates to:-

- a category of owners of properties, or to the owners of a category of properties, other than by way of an exemption, rebate or reduction as provided for in its rates policy and granted in terms of section 15 of the Municipal Property Rates Act, 2004; or
- The owners of properties on an individual basis.

In determining whether a property forms part of a particular category indicated below, the municipality shall have regard to the actual use to which the relevant property is put. In the case of vacant land not specifically included in any of the categories indicated below, the permitted use of the property shall determine into which category it falls.

**CATEGORY**                      **DESCRIPTION**  
**REBATE/EXEMPT**

<u>CATEGORY</u>	<u>DESCRIPTION</u>	<u>REBATE/EXEMPT</u>
03	AMUSEMENT/CINEMAS	0%
04	AGRICULTURE: USED FOR RESIDENTIAL	30%
05	BANKS	0%
05	BARRACKS/DORMITORIES	0%
06	BUILDING SOCIETIES	0%
07	CARETAKERS QUARTERS	0%
08	LIGHTHOUSE	0%
09	CEMETRIES/BURIAL GROUNDS	100%
10	PLACES OF WORSHIP	100%
11	COAL SITES	0%
12	COLLEGES/SCHOOLS/UNIVERSITIES	20%
13	COMPOUND	50%
14	OUTBUILDINGS	50%
15	DWELLING	30%
16	FARM PROPERTIES: USED FOR AGRICULTURAL PURPOSES	50%
16	FLATS/DOUPLEX/CLUSTER	30%
17	GARAGES/SERVICE STATION	0%
18	GOVERNMENT( STATE OWNED )	20%
19	HALL	100%
20	HOMES	30%
21	HOSPITALS/CLINIC/SURGERIES	20%
23	PRIVATE HOTELS/BOARDING	0%
24	INSURANCE COMPANIES	0%
25	LAW/MAGISTRATES COURTS	20%
26	CONVENT/MISSION	100%
27	MORTUARY	0%
28	MUNICIPAL	100%
29	MONUMENT	0%
30	NURSES QUARTERS	20%
31	PARSONAGES	100%
32	SOUTH AFRICAN POLICE	20%
33	POST OFFICE/TELEPHONE	20%
34	BAKERY	0%
35	BUTCHERY	0%
36	QUARRY	30%
37	RECREATION	100%
38	S A R & H	100%
39	WATERWORKS	30%
40	SHOPS	0%

41	SHOPS AND OFFICES	0%
42	AERODROME / AIRPORT	0%
43	STATIONS	30%
44	SHOPS AND FLATS	0%
45	TRADES & INDUSTRIES	0%
46	PUBLIC DEFENCE DEPARTMENT	20%
47	VACANT LAND ( RESIDENT, BUSINESS, INDUSTRIES )	0%
48	OFFICE/BUSINESSPREMISES	0%
49	STABLES / KENNELS	0%
50	ROADS ( Public Service infrastructure )	20%
50	PUBLIC SERVICE INFRASTRUCTURE (NON MUNICIPALITY)	20%
51	CANALS	0%
52	RIGHT OF WAY	100%
54	SUB STATION	30%
55	CONVENIENCES	0%
56	HOTELS	0%
59	SWIMMING POOLS	0%
69	DEPOTS	0%
71	CARAVAN PARK/CAMPING	30%
72	CRECHE / NURSERY	20%
73	MOBILE HOME	30%
74	SPORTING BODIES	0%
75	DWELLING / GRANNY FLAT	30%
77	RETIREMENT VILLAGE	30%
78	RIVER RESERVE	30%
79	HOLIDAY RESORT	30%

**NOTE:** Municipal properties shall include properties owned by municipal entities.

Business, Commercial and Industrial Properties can also apply for special rebates in terms of Ubhulebezwe Municipality's Incentive Scheme. Furthermore companies that comply with BBBEE Codes and can submit proof of employment equity can apply for a special rebate which will be considered on an individual basis. Companies who can submit evidence of job creation will also be considered for a special rebate on merit.

Properties in respect of land which is applied to the implementation of the land reform programme and landowners which can demonstrate their agricultural BEE or empowerment partnerships can apply for rebate from the payment of rates and Council will consider these applications on an individual basis.

The following categories of owners of residential properties shall additionally receive the following rebates on the rates due in respect of such properties after deducting the rebate applicable to residential properties:

Property owners who are both the Permanent occupants and the sole Owners of the property concerned And who are registered indigents in Terms of the municipality's indigent Policy.

100% of the rates based on the ratable value up to R30 000 and 75% of the rates based on the ratable value above

- ❖ Persons earning a total combined income of R4 000 or less to be 100% exempt from rates
- ❖ Pensioners who earning less than R3 600 to receive a rebate of 100% on rates
- ❖ Pensioners who earning more than R4 000 to R6 000 to receive a rebate of 20% on rates

Whose aggregate household income is proved to the satisfaction of the Municipal Manager and or Official In-charge.

- ❖ When a property is occupied by families led by children, proof thereof is available and that is certified by the Director: Community Services as such, it will be exempted from the payment of rates under sec 8 (2) q.

The Council grants the above rebates in recognition of the following factors:

- The inability of residential property owners to pass on the burden of rates, as opposed to the ability of the owners of business, commercial, industrial and certain other properties to recover such rates as part of the expenses associated with the goods or services which they produce.
- The need to accommodate indigents and less affluent pensioners.
- The services provided to the community by public service organizations.
- The contribution of agricultural activities to the local economy coupled with the limited municipal services extended to such activities, but also taking into account the municipal services provided to municipal residents who are employed in such activities.
- The need to preserve the cultural heritage of the local community.
- The need to encourage the expansion of public service infrastructure.

The Municipal Manager shall ensure that the revenues forgone in respect of the foregoing rebates are appropriately disclosed in each annual operating budget component and in the annual financial statements and annual report, and that such rebates are also clearly indicated on the rates accounts submitted to each property owner.

## **5. DEFERMENT OF RATES**

The following special circumstances qualify persons to apply for deferment of the payment of rates in terms of section 26(3) of the Municipal Property Rates Act:-

- property owners who are over sixty (60) years of age; or
- Property owners who are not over sixty (60) years of age, but have retired from employment by reason of illness or disability certified by a medical practitioner, and are in necessitous circumstances.

Such deferment may either be indefinitely, or for such period as the Municipality may decide.

Such deferment may be for the whole or any portion of such rates; provided that the total amount of all rates so deferred, together with accumulated interest thereon, shall not at any time exceed twenty percent (20%) of the value of the property concerned, as shown in the valuation roll.

### **Interest**

The accumulated amount of the deferred rates shall bear interest compounded monthly at a rate determined from time to time and the Council may also approve the waiver of such interest.

### **Liability**

Should the total amount of the rates deferred together with interest thereon exceed twenty percent (20%) of the value of the property as shown in the valuation roll, any such excess shall become due and payable and shall be deemed to be rates due.

## **Termination**

Any deferment granted shall terminate:-

- upon the death of the registered owner; provided that the Council may continue such deferment, in any case where it is established that the property concerned has been inherited by the surviving spouse and that such spouse continues occupation of the property;
- upon expropriation, sale or other disposal of the property;
- upon the owner ceasing to reside permanently on the property;
- if the owner fails by the final date for the payment thereof, to pay rates or any part thereof owing in respect of the property, after allowing for the amount of the deferment;
- on expiry of the period of deferment

## **Application for deferment**

Should an applicant wish to apply for a rebate/deferment of rates, he/she may apply before the end of July for consideration in any year.

## **6. FREQUENCY OF VALUATIONS**

The municipality shall prepare a new valuation roll every 4 (four) years and supplementary valuation rolls every year.

## **7. LEGAL REQUIREMENTS**

This policy is subject to the requirements of the Municipal Property Rates Act, 2004 and the Municipal Systems Act, 2000.

## **8. COMMUNITY PARTICIPATION**

Before a municipality adopts its rates policy, the municipality must follow the process of community participation envisaged in Chapter 4 of the Municipal Systems Act, 2000; and comply with the following requirements, as set out below.

The Municipal Manager of the municipality must:

- conspicuously display the draft rates policy for a period of at least 30 (thirty) days at the municipality's head and satellite offices and libraries, and, if the municipality has an official website or a website available to it, on that website as well; and
- advertise in the media a notice stating that a draft rates policy has been prepared for submission to the Council, and that such policy is available at the various municipal offices for public inspection, and (where applicable) is also available on the relevant website; and inviting the local community to submit comments and representations to the municipality within a period specified in the notice, but which period shall not be less than 30 (thirty) days.

The Council must take all comments and representations made to it into account when it considers the draft rates policy.

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

The Council must annually review, and if need - amend its rates policy. Any amendments to the rates policy must accompany the municipality's annual budget when it is tabled in the Council in terms of the Municipal Finance Management Act, 56 of 2003.

## **10. AMOUNT DUE FOR RATES**

A rate levied by a municipality on property must be stated as an amount in the rand:

- on the market value on the property;
- in the case of public service infrastructure, on the market value of the public service infrastructure less 30% of that value;
- in the case of property to which Section 17(1)(h) applies, i.e. A municipality may not levy a rate on the first R15000 of the market value of property assigned to a category determined for:
  - residential purposes; or
  - Properties used for multiple purposes, provided one or more components of the property are used for residential purposes.

## **11. PROMULGATION OF RESOLUTIONS LEVYING RATES**

A rate is levied by a municipality by a resolution passed by the Council with a supporting vote of a majority of its members.

The resolution levying the rates must be promulgated by publishing the resolution in the *Provincial Gazette*.

Whenever a municipality passes a resolution to levy rates, the Municipal Manager must, without delay, conspicuously display the resolution for a period of at least 30 (thirty) days at the municipality's head and satellite offices and libraries, and if the municipality has an official website or a website is available to it, on that website as well; and advertise in the media a notice stating that the resolution levying the property rates has been passed by the Council, and that the resolution is available at the municipality's head and satellite offices.

## **12. EXEMPTIONS, REDUCTIONS AND REBATES**

The municipality may:-

- exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of the rate levied on their property; or
- Grant to a specific category of owners, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties.

In terms of section 8 of the Municipal Property Rates Act, 2004, exemptions, reductions or rebates are determined per Council resolution in respect of owners of properties of the following categories:-

- indigent owners;
- owners dependent on pensions or social grants for their livelihood;
- owners of property situated within an area affected by a disaster or any other serious adverse social or economic conditions;
- owners of residential properties with a market value lower than an amount determined by the municipality; and

- Owners of agricultural properties who are *bona fide* farmers.

The Municipal Manager must annually table in the Council:

- a list of all exemptions, reductions and rebates granted by the municipality during the previous financial year; and
- A statement reflecting the income which the municipality has forgone during the previous financial year by way of such exemption, reductions and rebates, exclusions referred to in the Act and the phasing-in discount granted in terms of Section 21.

All exemptions, reductions and rebates projected for a financial year must be reflected in the municipality's annual budget for that year as income on the revenue side and expenditure on the expenditure side.

### **13. CONSTITUTIONALLY IMPERMISSIBLE RATES**

The municipality may not exercise its power to levy rates on property in a manner that materially and unreasonably prejudices national economic policies, economic activities across its boundaries, or the national mobility of goods, services, capital and labour.

### **14. OTHER IMPERMISSIBLE RATES**

A municipality may not levy a rate on:

- the first 30% of the market value of public service infrastructure;
- those parts of a special nature reserve, national park or nature reserve or national botanical garden which are not developed or used for commercial, business, agricultural or residential purposes;
- mineral rights;
- property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses 10 (ten) years from the date on which such beneficiary's title was registered in the office of the registrar of deeds;
- the first R15,000 of the market value of a property assigned in the valuation roll or supplementary valuation roll to a category determined by the municipality for residential purposes or for properties used for multiple purposes, provided one or more components of the property are used for residential purposes;
- A property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office bearer of that community and who officiates at services at that place of workshop.

### **15. EXEMPTION OF MUNICIPALITIES FROM PROVISIONS OF SECTION 17**

A municipality may apply in writing to the Minister for Provincial and Local Government to be exempted from applying the exemptions granted in respect of the first 30% of the market value of public infrastructure, the exemptions on nature reserves, national parks and national botanical gardens, the exemption on property belonging to land beneficiaries, and the exemption applying to the first R15,000 of the market value of residential and mixed use property, if the municipality can demonstrate that such exclusions are compromising or impeding its ability or right to exercise its powers or perform its functions within the meaning of the Constitution.

### **16. IMPERMISSIBLE DIFFERENTIATION**



A municipality may not levy:

- different rates on residential properties (except where transitional arrangements apply or where some of the properties are newly ratable);
- a rate on non-residential properties that exceeds a prescribed ratio to the rate on residential properties;
- rates which unreasonably discriminate between categories of non-residential properties; and
- Additional rates, except as provided for in Section 18.

#### **17. LIMITS ON ANNUAL INCREASES OF RATES**

On written application by the municipality, and on good cause shown, the municipality may apply for exemption from the upper limit set by the Minister of Provincial and Local Government, on the percentage by which rates on properties or a rate on a specific category of properties may be increased.

#### **18. COMPULSORY PHASING IN OF CERTAIN RATES**

A rate levied on newly rate able property must be phased in over a period of three financial years. Similarly, a rate levied on property owned by a land reform beneficiary must, after the exclusion period has lapsed, be phased in over a period of three financial years.

A rate levied on a newly rate able property owned and used by organizations conducting specified public benefit activities must be phased in over a period of four financial years.

The phasing in discount on a property must:

- in the first year, be at least 75% of the rate for that year otherwise applicable to that property;
- in the second year, be at least 50% of the rate for that year otherwise applicable to that property, and;
- In the third year, is at least 25% of the rate for that year otherwise applicable to that property.

No rate may be levied during the first year on newly ratable property owned and used by organizations conducting specified public benefit activities. Thereafter the phasing in discount shall apply as for other newly ratable property except that the 75% discount shall apply to the second year, the 50% to the third year, and the 25% to the fourth year.

A rate levied on newly ratable property may not be higher than the rate levied on similar property or categories of property in the municipality.

#### **19. SPECIAL RATING AREAS**

A municipality may by a resolution of its Council determine an area within that municipality as a special rating area, levy an additional rate on property in that area for the purpose of raising funds for improving or upgrading that area, and differentiate between categories of properties when levying such additional rate.

The levying of an additional rate 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 IDP.

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

A rate levied by a municipality on property must be paid by the owner of the property. Joint owners of a property are jointly and severally liable for the amount due for rates on that property.

In the case of agricultural property owned by more than one owner in undivided shares, the municipality must consider whether in the particular circumstances it would be more appropriate for the municipality to hold any one of the joint owners liable for all rates levied in respect of the agricultural property, or to hold any joint owner only liable for that portion of the rates levied on the property that represent that joint owner's undivided share in the agricultural property.

**21. PAYMENT OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES**

The rate levied by a municipality on a sectional title unit is payable by the owner of the unit.

The municipality may not recover the rate on such sectional title unit, or any part of such rate, from the body corporate controlling the sectional title scheme, except when the body corporate itself is the owner of any specific sectional title unit.

**22. METHOD AND TIME OF PAYMENT**

A municipality must recover a rate on a monthly basis, or annually, as determined by the municipality.

If the rate is payable in a single annual amount, it must be paid on or before a date determined by the municipality. If the rate is payable in installments, it must be paid on or before a date in each period determined by the municipality.

**23. ACCOUNTS TO BE FURNISHED**

A municipality must furnish each person liable for the payment of a rate with a written account specifying:

- the amount due for rates payable;
- the date on or before which the amount is payable;
- how the amount was calculated;
- the market value of the property;
- if the property is subject to any compulsory phasing-in discount in terms of Section 17, the amount of the discount, and
- If the property is subject to any additional rate in terms of Section 18, the amount due for additional rates.

The person liable for payment of the rates remains liable for such payment whether or not such person has received a written account from the municipality. If the person concerned has not received a written account, that person must make the necessary enquiries from the municipality.

**24. RECOVERY OF RATES IN ARREARS FROM TENANTS AND OCCUPIERS**

If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined for payment by the municipality, the municipality may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after it has served a written notice on such tenant or occupier.

The amount that the municipality may recover from the tenant or occupier is limited to the amount of the rent or other money due or payable, but not yet paid, by such tenant or occupier to the owner of the property.

## **25. RECOVERY OF RATES FROM AGENTS**

A municipality may recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the municipality, but only after the municipality has served a written notice on the agent in this regard.

The amount that the municipality may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any commission due to the agent.

## **26. GENERAL VALUATION AND PREPARATION OF VALUATION ROLLS**

A municipality intending to levy a rate on property must cause a general valuation to be made of all properties in the municipality, and must prepare a valuation roll of all properties in terms of such valuation.

All ratable properties in a municipal area must be valued during such general valuation, including all properties fully or partially excluded from rates in terms of Section 17 of the present Act. However, if the municipality does not intend to levy rates on its own property, on public service infrastructure owned by a municipal entity, on rights in properties, and 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 racial discrimination, the municipality is not obliged to value such properties as part of the valuation process.

A municipality may also apply to the Minister for exemption from the obligation to value properties excluded from rates in terms of Section 17 if the municipality can demonstrate that the valuation of such properties is too onerous for it, given its financial and administrative capacity.

Properties which have not been valued, because of any of the foregoing considerations, must nevertheless be included in the valuation roll.

## **27. GENERAL BASIS OF VALUATION**

The market value of a property is the amount the property would have realized if sold on the date of valuations in the open market by a willing buyer.

In determining the market value of a property, the following must be considered for purposes of valuing the property:-

- the value of any license, permission or other privilege granted in terms of legislation in relation to the property;
- the value of any immovable improvement on the property that was erected or is being used for purpose which is inconsistent with or in contravention of the permitted use of the property, as if the improvement was erected or is being used for a lawful purpose; and
- The value of the property for a purpose which is inconsistent with or in contravention of the permitted use of the property, as if the property is being used for a lawful purpose.

In determining the market value of a property the following must be disregarded for the purposes of valuing the property:-

- the value of any building or other immovable structure under the surface of the property which is the subject matter of any mining authorization or mining rights defined in the Minerals Act, 1991;
- the value of any equipment or machinery which, in relation to the property concerned, is immovable property, excluding –
  - a lift
  - an escalator
  - an air conditioning plant
  - fire extinguishers
  - a water pump installation for a swimming pool or for irrigations on domestic purposes; and
  - any other equipment or machinery that may be prescribed;
- Any unregistered lease in respect of the property.

In determining the market value of a property used for agricultural purposes, the value of any annual of crops or growing timber on the property that have not yet been harvested as at the date of valuation must be disregarded for purposes of valuing the property.

Where the available market related data is insufficient to determine the market value of public service infrastructure, such public service infrastructure may be valued in accordance with any other method of valuation as may be prescribed.

## **28. DATE OF VALUATION**

For the purposes of a general valuation a municipality must determine a date that may be not more than twelve (12) months before the start of the financial year in which the valuation roll is to be first implemented. The date of valuation in respect of Ubuhlebezwe Municipality is **1 July 2012**.

The general valuation must reflect the market values of properties in accordance with market conditions which apply as at the date of the valuation, and in accordance with any other applicable provisions of the present Act.

## **29. VALUATION OF PROPERTY IN SECTIONAL TITLE SCHEMES**

When valuing a property which is subject to a sectional title scheme, the valuer must determine the market value of each sectional title unit in the scheme.

## **30. RIGHT OF APPEAL**

An appeal to an Appeal Board against a decision of the municipal value in terms of the Act may be lodged in the prescribed manner and upon payment of the approved fee with the municipal manager.

## **31. UPDATING OF VALUATION ROLLS**

The municipality must regularly, but at least once a year, update its valuation roll by causing –

- a supplementary valuation roll to be prepared in terms of Section 78 of the Municipal Property Rates Act; or
- The valuation roll is to be amended in terms of Section 79 of the Municipal Property Rates Act.

## **32. REGISTER OF PROPERTIES**

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

**Part A** of the register consists of the current valuation roll of the Municipality, including any supplementary valuation rolls prepared in terms of section 78 of the Municipal Property Rates Act.

**Part B** of the register must specify which properties are subject to:-

- an exemption;
- a rebate on or reduction in the rate;
- a phasing-in of the rate;
- Exclusion referred to in section 17.

### **33. RATES CLEARANCE CERTIFICATES**

The following policy shall apply to the issue of a municipal clearance certificate for the purpose of effecting transfer of a property to a new owner:-

#### **Assessments**

Application shall be made in the prescribed format, providing the following information in respect of the property in question-

- present owner of the property
- property description
- physical address
- rates account numbers
- refuse account numbers

Preferably copies of all the accounts must accompany the application. If the relevant information is not provided, the application will be returned to the conveyance.

Every effort will be made to issue an assessment within five (5) days of receipt of application. Certain delays may be experienced in respect of –

- new sub-divisions
- pending building plans
- special investigations

Conveyances will be notified of possible delays.

**The assessment shall include the following:-**

- **Rates for the balance of the year (30 June) still outstanding**

Where application is made after 31 March, the assessment shall include an estimate for the three months of the new financial year to 30 September.

- **Refuse account**

Actual balance outstanding at date of application together with an estimate for three months following.

- Other

Actual balance outstanding at date of application.

- Assessment fee

Tariff fee of R250.00 (Including VAT).

#### **Period of validity**

The assessment shall remain valid for a period of one (1) month. If payment has not been received within this period, a re-assessment may be required and payment of a further assessment fee will apply.

**The onus rests with the seller to ensure:-**

- that all buildings on the property are in accordance with the building plans approved by the Council;
- the premises in question are being utilized in accordance with its zoning;
- That all outstanding debts accruing to Council in respect of the property is fully paid.

Any discrepancies in respect of the above may result in delays in issuing of a clearance certificate, and in addition may result in levying of additional backdated rates and/or penalties.

**Clearance certificates**

- Every effort will be made to issue a municipal clearance certificate within five (5) days of receiving payment.
- Only in exceptional circumstances, which must be fully motivated, will an unconditional guarantee be accepted in lieu of a cash payment.
- The guarantee must be –
  - issued by a recognized bank
  - Unconditional
  - For the full amount for the financial year requested and or
  - For a specified period of time reasonable to Council.

An attorney trust cheque may also be accepted in lieu of cash payment.

\*\*\*\*\***There shall be no refunds on the cancellation of a sale.**\*\*\*\*\*