



**ETHEKWINI MUNICIPALITY**  
**RATES POLICY**  
**2017/ 2018 Draft**

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**PREAMBLE**

In terms of Section 229 (1) on the Constitution of the Republic of South Africa the Municipality has the power to levy a rate on property in its area.

In terms of Section 3 (1) of the Local Government: Municipal Property Rates Act 6 of 2004 (~~hereinafter referred to as the MPRA~~) and Section 62(1)(f) of the Local Government: Municipal Finance Management Act 56 of 2003 (~~hereinafter referred to as the MFMA~~), a Municipality should adopt and implement a policy on the levying of rates on rateable property.

**Commented [M1]:** Delete, already covered in Definitions

NN: The definition was to assist with the introductory paragraph under definition sand acronyms

**Commented [M2]:** See comment M1.

NN: See comment M1.

This document sets out the rates policy of the eThekweni Municipality and must be read in conjunction with the eThekweni Municipality: Property Rates Bylaw 2015 and the Local Government: Municipal Property Rates Act 6 of 2004.

## PURPOSE

The objective of this policy is to regulate the power of the Municipality to impose rates on property in a sustainable, fair and equitable way.

## DEFINITIONS AND ACRONYMS

In addition to the Definitions provided for in the MPRA the following Definitions apply for the purpose of this Policy-

"**Act**" means Local Government: Municipal Property Rates Act, No.6 of 2004;

"**Additional rate**" means an additional rate contemplated in sections 19(1) (d) and 22(1) (b) of the ActMPRA read together with clause 9 of this Policy;

~~"**Agricultural property**" means any land or buildings in respect of which there is currently an agricultural certificate issued by the Municipal Valuer;~~

"**Audited Financial Statements**" mean, for the purposes of clause 7.5 and 7.8 of the Policy:

An annual report issued by an independent registered auditor or a person certified by a registered body or a certified bookkeeper expressing an opinion on financial statements. This includes a statement of financial position; a statement of financial performance; a cash-flow statement; other statements that may be prescribed; and any notes to these statements;:-

"**Back-packer lodge**" means a commercial accommodation establishment where beds are available to guests in communal, hostel type accommodation;

**“Bed & Breakfast”** means a commercial accommodation establishment with a maximum of 8 beds available to guests;

**“Billing Cycle”** means the start of the cycle on which the account is printed to the date on which it falls due and payable;

**“Brownfield ”** means a Brownfield development as defined in terms of the Economic Development Incentive Policy of the Municipality;

**“Business and Commercial property”** means:

- (a) Property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity;
- (b) Property on which the administration of the business of private or public entities takes place;
- (c) Property used for the provision of commercial accommodation;
- (d) Property used for education purposes;
- (e) Property used by the State or any organ of State; or
- (f) Property excluded from any other category of property;

**“CFO”** means Chief Financial Officer of the Municipality as defined in the Local Government Municipal Finance Management Act, Act 56 of 2003 or his/her delegate in terms of section 59 of the Local Government Municipal Systems Act, Act 32 of 2000;

**“Commercial accommodation”** means lodging, or board and lodging, in any house, flat, apartment, room, hotel, motel, inn, guesthouse, bed & breakfast, back-packer lodge, boarding house, residential holiday resort establishment, time share, holiday accommodation, student accommodation, unit, chalet, tent, caravan, camping site or similar establishment which is regularly or systematically supplied but excludes a Domicile property;

**“Community Tourism Organisation” (CTO)** means an independent local organization registered with the Municipality’s Durban Tourism Department and

the KwaZulu-Natal Economic Development, Tourism and Environmental Affairs Department (EDTEA), responsible for the promotion of tourism establishments and tourism operators within a local area;

“Council” means the eThekweni Municipal Council; a council composed and elected in terms of section 157 of the Constitution;

“EDTEA” means KwaZulu-Natal Economic Development, Tourism and Environmental Affairs Department;

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~~“Deemed Owner” means an occupant of the property which was previously governed by the Black Estates Act, and the estate has not yet been finalised, the occupant of the property shall be regarded as “Deemed Owner” for the purposes of the Municipal accounts only, and shall be responsible for the consolidated account, including rates. “Deemed Ownership” does not confer any rights to the occupants other than the liability to pay the Municipal accounts and benefit from rebates.~~

“Domicile” means the primary single residential property where a person has his or her permanent principal home to which he or she returns or intends to return and where he or she resides for at least 9 months in the Municipal Financial Year;

~~“Dominant Use” means, in relation to a multiple use property, the use that occupies greater than 1/3<sup>rd</sup> in relation to the square meter development of the property.~~

“Finance Agreement” means the agreement signed and entered into in terms of Section 67 of the MFMA;

“Greenfield” means a Greenfield development as defined in the Economic Development Incentive Policy of the Municipality;

“Guest-house” means a commercial accommodation establishment with a minimum of 9 and a maximum of 20 beds available to guests;

“**Heritage Act**” means the KwaZulu-Natal Heritage Act No. 4 of 2008;

“**Holiday Accommodation**” means in relation to this policy all residential properties privately owned and which are used or rented out periodically for a period up to 60 days exclusively for commercial accommodation;

“**Industrial Property**” means property used for a branch of trade or manufacturing, production, assembly or processing of finished or partially finished products from raw material or fabricated parts in respect of which capital and labour are involved, and includes–

- (a) The processing of raw products on the property;
- (b) The storage and warehousing of products on the property; and
- (c) Any office or other similar facility accommodation on the same property, the use of which is incidental to such activity;

“**Life Rights Scheme**” means a housing development scheme, with rights of occupation, as contemplated in the Housing Development Schemes for Retired Person’s Act 65 of 1988;

“**MFMA**” means Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003), as amended;

“**Minor**” means a natural person under the age of 18 years;

“**Municipal**” means for the purposes of clause 6.1(k) of this Policy, the Municipality, where it is either the registered owner of property or property is statutorily vested in the Municipality;

“**Municipal Financial Year**” means the year starting 1 July each year;

“**Non-Profit Retirement Villages**” shall bear the same meaning as ‘housing development scheme’- contained defined in the Housing Development Schemes for Retired Person’s Act 1998 (Act 65 of 1988) read together with Section 30 of the Income Tax Act, No. 58 of 1962;

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“**Old Age Home**” means for the purposes of this Policy, a residential facility of the nature contemplated in the Older Persons Act, 2006 (Act No 13 of 2006) for persons who have attained the age of 60 years or older;

“**Orphanage**” means a residential institution devoted to the care of children whose parents or family members are unable, or unwilling, to care for them;

“**Owner**” means in addition to the persons defined in the Act, includes–

- a) in relation to a property referred to in paragraph (a) of the definition of “property” ~~in the Act~~, means a person in whose name ownership of the property is registered;
- b) The administrator of the body corporate of the sectional title scheme ~~in the case of where the~~ common property ~~in~~ a sectional title scheme ~~is at issue and where~~ there are no elected trustees of the body corporate;
- c) The administrator, where the owner of the building is a mental health care user as defined in section 1 of the Mental Health Act, 2002 (Act No. 17 of 2002);
- d) The business rescue practitioner, where the owner of the building has been placed under business rescue;
- e) The managing agent, where the owner of the building is absent from the Republic of South Africa or where the Municipality has, after reasonable attempts, not been able to determine his or her whereabouts;
- h) Every person who is entitled to occupy or use a building, or who does occupy or use a building, where –
  - (i) The owner of the building is absent from the Republic of South Africa;
  - (ii) The Municipality has, after reasonable attempts, not been able to determine the whereabouts of the owner of the building; and
  - (iii) There is no managing agent;
- g) Trustees and beneficiaries jointly, in the case of property in a trust;
- h) An executor or administrator, in the case of property in a deceased estate;

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- kj) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- lj) A judicial manager, in the case of a property in the estate of a person under judicial management;
- mk) A curator, in the case of aproperty in the estate of a person under curatorship;
- nl) 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, as joint owner together with the registered owner;
- om) A lessee, in the case of a property that is registered in the name of the Municipality and is leased by it;
- po) A buyer or a developer, in the case of a property that was sold by the Municipality and in respect of which possession has been~~was~~ given pending registration of ownership in the name of the buyer, beneficiary, or a developer;
- qp) A fideicommissary as joint owner together with the fiduciary;
- rq) Ingonyama Trust, in respect of the land vested in the Ingonyama Trust by virtue of the Ingonyama Trust Act of 1994;
- rs) The National Government of the Republic of South Africa, in the case of a property that is registered in the name of a deregistered company or close corporation and where ownership thereof has accrued to the state by operation of law (bona vacantia); or
- us) An owner of the property in the name of any ~~other~~ juristic person not mentioned in this definition of an owner;

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“Prescribed Form” means any document that may be prescribed by law or approved by Council or required by the CFO from time to time;

Commented [M3]: Why not Municipality which can include CFO or City Manager. The current wording suggest that any document that the City Manager might prescribe may not be regarded as prescribed form. The word “Municipality” covers all situations.

“Primary Property” means the residential property on which the owner permanently resides for at least nine months in the Municipal Financial yYear;

NN: This definition has been scrutinized and approved by the Chief Legal Advice/ Muhammed for the Cr Control Policy.

“Public Benefit Organisation” means a public benefit organisation as defined in section 30(1) of the Income Tax Act No. 58 of 1962;



**“Rateable Rural Property”** means any ~~structure~~property on privately owned land, ~~(including land in the ownership of an organs of state) which is,~~ situated within identified rural areas of the Municipality, where the value of ~~each~~ structure on such land~~thereon,~~ exceeds the value threshold as determined by Council in its annual budget, ~~as the maximum reduction amount for residential property;~~

**“Relief”** means exemptions, rebates or reductions that may be granted by the Municipality in terms of this Policy;

~~**“Residential property”** means a dwelling, in any building, premises, structure, or any other place, or any part thereof, used predominantly as a place of residence or abode of any natural person **excluding** a dwelling where the dominant use is for any purpose other than residential, or where it is used in the supply of commercial accommodation;~~

**“Rural Residential”** means privately owned land, with multiple residential structures, situated within identified rural areas of the Municipality, where each residential structure does not exceed the value as determined by Council in its budget, as the maximum reduction amount for residential property;

**“School Not for Gain”** means for the purposes of clause 7.8 of this Policy, a school registered and operating in terms of the South African Schools Act 1996 (Act 84 of 1996), and in respect of which a tax exemption certificate has been issued by the South African Revenue Services as contemplated in Part 1 of the Ninth Schedule of the Income tax Act, 1962 (Act 58 of 1962);

**“Senior Citizen”** means a natural person who is ~~over the age of sixty~~ (60) years or older;

**“Special Rating Area or “SRA”** subject to section 22 of the Act, means a geographic area, approved by Council, within which property owners agree to pay for certain services supplementary to those supplied by the Municipality. These services are financed by levying an additional rate, which is added to the rates bill of the property owners within the precinct;

"**SRA Management Company**" means a Non-profit company registered in terms of the Companies Act 2008 (Act 71 of 2008) to manage the SRA;

"**The Municipality**" means eThekweni Municipality;

"**Trading Services**" shall include: property used by the Municipality's Electricity Department; Municipal Parking Areas/Buildings; Market Buildings; Municipal Entities; property used by the municipality's water, refuse and sanitation departments;

"**Urban Development Line**" means the line demarcating the geographical area outside of which municipal services are mostly not available and outside of which development is generally not promoted. See attached area on Annexure **AB** hereto;

"**Vacant land**" means land that has not been developed with any structures. Such land to assume the categories described under clause 5.6(a), (c) or (d) once an occupation or completion certificate has been issued by the Planning and Development Unit of the Municipality; and

"**Value of property**" means the value of the property as determined under the Act.

## **PROBLEM STATEMENT**

The Constitution enjoins municipalities to be developmental in nature, in addressing service delivery priorities and promoting the economic and financial viability of municipalities.

Municipalities need to be provided with access to a sufficient and buoyant source of revenue necessary to fulfil their developmental responsibilities.

Income derived from property rates is a critical source of revenue for municipalities to achieve their constitutional objectives, especially in areas that have been neglected in the past due to racially discriminatory laws.

~~The Act specifies that it is essential that municipalities exercise their power to impose rates within a statutory framework and enjoins municipalities to adopt a rates policy consistent with the Act.~~

~~Rates are necessary to fund service delivery and other municipal services and outputs. To ensure excellence in corporate governance, all municipal stakeholders must be consulted on the Municipality's rationale to the levying of rates, and informed about the rates process.~~

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~~This is the 9th review of the original Rates Policy written in terms of the MPRA and adopted in 2008.~~

~~The rates policy will be available for perusal free of charge at all municipal Customer Service centres, Sizakala Centre offices and the City Hall, Durban.~~

## **POLICY**

### **1. INSTITUTIONAL REQUIREMENTS**

- 1.1 Treasury is the responsible municipal cluster ~~for this Policy.~~
- 1.2 In applying ~~its the~~ rates policy, the Municipality will meet the requirements of the ~~Act~~MPRA and the MFMA, and any other relevant legislation.
- 1.3 Section 3 of the Act provides that ~~at the~~Rates ~~p~~Policy takes effect on the effective date of the first valuation roll prepared by ~~at the~~ Municipality in terms of this Act.
- 1.4 Council shall review ~~the- its r~~Rates ~~p~~Policy, together with the Municipality's budget, annually.

Commented [M4]: See addition.  
NN: Amended

## **2. LIABILITY FOR RATES**

- 2.1 Rates levied on property must be paid by the owner of the property.
- 2.2 Joint owners or trustees of a trust, are jointly and severally liable for payment of Rates on the property, the one paying the other to be absolved.
- 2.3 Service of accounts or documents or process on any one owner is deemed to be service on all owners.

## **3. AMOUNT DUE FOR RATES**

- 3.1 The Municipality will, by resolution, as part of each annual operating budget process, determine a rate in the rand for every category of property.
- 3.2 Rates may be increased annually, in accordance with the budget resolution, as result of–
  - a) any increase in the Budget;
  - b) any increase in rebates, exemptions and or reductions;
  - c) any Regulatory changes to ratio's as prescribed in terms of section 19 of the Act;
  - d) any decrease in the market value of property; or
  - e) any other related reason not listed above.

## **4. METHOD AND FREQUENCY OF PAYMENT OF RATES**

- 4.1 The Municipality shall recover a rate on a monthly basis in 12 near equal instalments, together with any supplementary rates.
- 4.2 The Municipality may recover a rate annually, on application, from owners with fifty (50) or more property rates accounts under the following conditions:
- 4.2.1 Such application must reach the Municipality on or before 30 April of each year and
- 4.2.2 Such annual amount must be paid by 31 October of each year.
- 4.3 The Municipality may recover a rate annually for National and Provincial Government owned property.
- 4.4 The payment of rates shall not be affected by reason of objections, an appeal or non-compliance with the rates policy.
- 4.5 The Municipality may publish a number of Supplementary Valuation Rolls during the year, in accordance with Section 78 of the [Act MPRA](#). The rates, as adjusted by the Supplementary Valuation Roll, will be levied accordingly.
- 4.6 Unless otherwise specified in section 78 of the [Act MPRA](#), relief and rates will not be raised or implemented retrospectively.

## 5. CATEGORIES OF PROPERTY

- 5.1 The Municipality may levy different Rates for different categories of Property, the details of which are ~~contained published~~ in ANNEXURE "~~BA~~" ~~annexed attached~~ hereto.
- 5.2.1 Subject to clause 5.2.2 ~~and 10.2~~ of this policy, the categories of property are determined according to the use of the property and the property shall be rated on such actual use.

5.2.2 Rateable Rural Property will be valued and rated in accordance with the footprint of the actual structure erected on such property.

5.3 A change in use may result in a change in the category of the property.

5.4 The Municipality does not separately value rights in the Land except:

- a) public Service Infrastructure;
- b) rights of Extension in Sectional Title Schemes; ~~and~~
- c) registered Leases within identified rural areas of the Municipality ~~and~~;
- d) deed of grant rights

5.5 Differential rating among the various property categories may be executed by different rate ranges for each property category.

5.6 The Municipality has identified the following categories of property in line with section 8 and 93A of the ~~Act MPRA~~

- a) Residential property;
- b) Agricultural property;
- c) Industrial property;
- d) Business and Commercial property;
- e) Properties owned by an organ of state and used for public service purposes;
- f) Public Service Infrastructure properties\*<sup>1</sup>;
- g) Properties owned by public benefit organisations and used for specified public benefits activities;
- h) Mining properties;
- i) Vacant land;
- j) Unauthorised or illegal development or use;
- k) Rural Residential;
- l) Rateable Rural Property;

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<sup>1</sup>\*Will come into operation with the next General Valuation in 2022

- m) ~~Rural property~~; and
- n) ~~Urban Development Line~~

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5.7. Where a property is used for multiple purposes, the Municipality will assign the appropriate categories listed in clause 5.6 above to the different purposes for which the property is used to a multiple use category.

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## 6. CATEGORIES OF OWNERS OF PROPERTY

Commented [M5]: Please see additions. See Comment 3 from the Letter of Rates Watch, they might be raising a valid point but we just need to change wording. See suggested wording below

6.1 The Municipality has determined the following categories of owners of property-

- a) Residential Property owners;
- b) senior citizens;
- c) disability grantees or medically boarded persons;
- d) child headed households;
- e) public benefit organisations;
- f) life rights schemes and retirement complexes;
- g) bed & breakfasts, guesthouses and backpackers; Commercial Accommodation Property Owners
- h) schools not for gain;
- i) sporting bodies;
- j) land reform beneficiaries;
- k) municipal Properties;
- l) public service infrastructure;
- m) owners of property affected by natural and other disasters;
- n) vacant land;
- o) State Owned Properties
- p) nature reserves or conservation areas; and
- q) economic development (Greenfield and Brownfield).

Commented [NN6]: NN: The valuation roll refers to Residential, the General valuation roll is out

Commented [M7]: If you accept this wording. Please also change the Definition of the word "Municipal".

NN: The valuation roll refers to Municipal, the General valuation roll is out

Commented [NN8]: NN: These categories of owners were inserted for the purposes of Relief (REBATE). Therefore we cannot insert a category "Commercial Accommodation Property Owner" as some of the Commercial accommodation owners will not qualify for any relief (e.g. Hotels), however we have noticed that we need to include, Holiday accommodation and Student Accommodation.

## 7. EXEMPTIONS, REBATES AND REDUCTIONS (“RELIEF”)

- a) The Municipality may, in terms of the criteria set out in this Policy exempt a specific category of owners of properties, or the owners of a specific category of properties, from the payment of a rate levied on their property; or grant to a specific category of owners of properties, 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, as determined in this clause 7.
- b) The Owner must make application for Relief in a prescribed form no later than 30 April preceding the new Municipal financial year for which Relief is sought. Relief shall only be granted upon approval of the application by the Municipality. Unless indicated to the contrary in this Policy, Relief shall become effective on 1 July of the financial year for which it is sought.
- c) Once the application is approved, it must be renewed annually in the prescribed form, and must reach the Municipality no later than 30 April preceding the new Municipal financial year for which Relief is sought.
- d) Unless indicated to the contrary in this Policy, the existing application will lapse should it not be renewed annually before 30 April preceding the new Municipal financial year. Relief will only be re-instated prospectively from the next practical billing cycle once a renewal application, in the prescribed form, has been approved. The onus is on the beneficiary to ensure that that the Relief has been renewed.
- e) All exemptions, rebates and reductions are subject to an amount determined by a resolution of Council at its annual budget.
- f) No category of owner shall qualify for multiple rebates except for Senior citizens, Disability Grantees, Child Headed Households and Medically Boarded persons.
- g) Unless indicated to the contrary in this Policy, Relief will lapse:
  - i. at the end of the Municipal Financial Year for which it was granted;
  - or



- ii. where the applicant ceases to meet all the relevant qualifying criteria; or
- iii. on date of transfer of the property.

## **7.1 RESIDENTIAL PROPERTY**

7.1.1 The Act/MPRA imposes a R15 000 exclusion in the value of residential property. Accordingly, the Municipality will not levy a rate on the first R15 000 of the market value of Residential Properties as set out in section 17(1)(h) of the Act.

7.1.2 The Municipality may grant an additional rebate on the valuation of residential property by resolution of Council at its annual budget. This further rebate will be granted on an application basis as contemplated in 7 (b) above.

## **7.2 SENIOR CITIZENS**

The aim of this rebate is to alleviate the burden on senior citizens who have a fixed income and limited resources.

7.2.1 Subject to the criteria set out in 7.2.2 below, Senior Citizens may be granted a rebate on their Primary Property, with effect from the next practical billing cycle, following the date of approval of an application.

7.2.2 The applicant must meet the following criteria–

- a) he or she must be sixty (60) years or older;
- b) he or she must produce a South African bar coded identity document or Smart Identity Card;

- c) he or she must be the owner or ~~“deemed owner”~~ of the ~~D~~edomicile property; This includes co-owners who are married to each other or property owned solely by either spouse;
- d) in the case of co-ownership, all owners must meet the qualifying criteria in 7.2 or 7.3 (i.e. as a senior citizen / disabled / medically boarded person);
- e) the rebate will be granted ONLY on one property;
- f) the value of the ~~D~~edomicile property must not exceed a value as determined by Council at its annual budget;
- g) in the case of a Trust, the Trustee/s must meet all of the above criteria and a copy of the Title Deed, Trust Deed and Letters of Authority must be produced;
- h) in the case of a usufruct or other personal servitude, the servitude must be registered over the whole property. The holder of the personal servitude must meet all of the above criteria. A copy of The Title Deed must be produced. The holder/s of the servitude will be granted the rebate jointly on one property only; and
- i) executors or administrators of deceased estates, Liquidators and Trustees are excluded from the rebates.

**Commented [M9]:** Delete as deleted in definitions.

NN: Do not agree, the word deemed owner has to be retained specifically for this clause, it was never intended to refer to the original definition of the deemed owner in 16/17 policy. It is referring to the 2<sup>nd</sup> sentence scenario

### 7.2.3 The Senior Citizens rebate will lapse–

- a) on death of the applicant if applicant owns 100% of property;
- b) on the date of transfer of the property;
- c) when the Applicant ceases to reside permanently on the ~~D~~edomicile property;
- d) ~~when the Trustee/s no longer meet the qualifying criteria; or~~
- e) when the holder of the personal servitude no longer meets the qualifying criteria.
- f) At the end of the Municipal Financial Year for which the rebate was granted, where one spouse as contemplated in 7.2.2(c) above passes away during such year.
- g) When the property undergoes a category change and no longer meets the qualifying criteria for Relief.

**Commented [M10]:** The reason I had indicated earlier that a Trust is a juristic person is because in our Credit Control Policy we treat a Trust as such.

NN: Noted

7.2.4 Rebates granted in error or due to false or incorrect information supplied by the applicant, will be reversed immediately from date of inception of the rebate.

7.2.5 Council may approve further rebates at its annual budget, based on its indigence support programme and the income level of qualifying applicants.

7.2.6 For the purposes of 7.2.2(e), an owner in a Sectional Title Scheme who owns, in addition to the residential unit, a garage, parking, granny flat or storage room, on separate Title, is deemed to be the owner of ONE property.

7.2.7 For the purposes of 7.2.2(e), an owner of two or more properties which are notorially tied to each other, is deemed to be the owner of ONE property.

7.2.8 Where a Senior Citizen has failed to make application for relief before 30 April as specified in 7(d) above, and the failure was not due to any negligence on the part of such Senior Citizen, the Senior Citizen may submit representations to the CFO as to why the Relief should be renewed.

(a) Representations shall be made by submitting an affidavit or affirmation, signed before a Commissioner of Oaths, indicating the reasons for the failure to make timeous application for the renewal of the Relief and the grounds why the renewal of the Relief should be granted. The prescribed renewal application form, duly completed, must accompany such document.

(b) Any representations must be submitted within 3 months of the new Municipal financial year for which the relief is sought (i.e by 30 September).

(c) A panel of 3 officials within the Revenue Management Unit, nominated by the CFO, one of whom shall be the Head Revenue Management, will consider the representations and reply thereto in writing.

(d) Such panel may conduct independent investigations to verify the facts or call for additional information.

(e) The panel may-

**Commented [M11]:** How do you evaluate Negligence. You might end up being subjective if no criteria is set.

NN: Objective criteria will be use based on the reasonable man test and facts

**Commented [M12]:** The wording suggest that between the period 1 May to 30 June you do not submit the representations. Is that the intention?

NN: Yes

**Commented [M13]:** The section provides that " the Senior Citizen may submit representations to the CFO ". For clarity purposes, is the CFO only the receiver of the Representation with no power to make decisions on the representations since all powers are seemingly with the Panel?? Is that the intention??

NN: yes

- (i) Allow the representations if there are reasonable grounds indicating that the Relief ought to be renewed in which event the Relief will apply in respect of the whole of the Municipal financial year for which the Relief is sought, subject to 7.2.3.
- (ii) Reject the representations if there are no such reasonable grounds.

### **7.3 DISABILITY GRANTEES OR MEDICALLY BOARDED PERSONS**

7.3.1 The intention of this rebate is to assist those people who have a physical or mental condition that constrains him/her from performing normal work related functions and as a consequence he/she is unable to find employment or unable to maximise his/her earning capacity.

In the spirit of this, the CFO may hear representations where an application has been rejected. The same process as laid down in section 25 (Disputes) of the Municipality's Credit Control and Debt Collection Policy shall apply, with such changes as are necessary. The Applicant may be required to submit to further medical examinations by a Municipal appointed medical practitioner, at the expense of the Applicant. The CFO or his nominee may make a decision that is binding.

7.3.2 Disability Grantees including temporary disability grantees or Medically Boarded persons may, on annual application, be granted a rebate, with effect from the next practical billing cycle following the date of application, subject to the following:

- a) Disability grantees: the applicant must be in possession of a letter, issued by the Department of Social Serviceswelfare, confirming receipt of a disability grant, or a specialist medical practitioner confirming disability and inability to work. ;
- b) Medically boarded persons: the applicant must produce a letter from the Applicant's relevant ex-employer or the underwriter for the employer confirming medical boarding;

- c) The applicant must produce a South African bar coded identity document or Smart Identity Card;
- d) The applicant must reside on the Domicile property;
- e) The applicant must be the registered owner of the Domicile property. This includes co-owners who are married to each other or property owned solely by either spouse;
- f) Joint owners must each meet the above criteria or the criteria set out in 7.2 above (i.e. as a senior citizen / disabled / medically boarded person).
- g) In the case of a Trust, The Trustee must meet all of the above criteria. A copy of the Title Deed must be produced;
- h) In the case of a usufruct or other personal servitude, the servitude must be registered over the whole property. The holder of the personal servitude must meet all of the above criteria. A copy of The Title Deed must be produced. The holder/s of the servitude will be granted the rebate jointly on one property only; and
- i) Executors/Administrators of deceased estates, Liquidators and Trustees of Insolvent Estates and temporary disability grantees are excluded from the rebates.

7.3.3 The rebate will automatically lapse:

- a) on death of the applicant;
- b) on application for a Revenue Clearance Certificate and on alienation of the property;
- c) when the applicant ceases to reside permanently on the primary property;~~or~~
- d) if a medically boarded person gains employment;-
- e) At the end of a Municipal financial year.
- e)f) When the property undergoes a category change and no longer meets the qualifying criteria for Relief.

7.3.4 Rebates granted in error or due to false/incorrect information supplied by the applicant, will be reversed immediately from date of inception of the rebate.

#### 7.4 **CHILD HEADED HOUSEHOLDS**

7.4.1 Property shall be classified as a "Child Headed Household" if the minors in the household have been investigated by a social worker from the Department of Social Development and declared as such. For the purposes of this rebate, the age threshold for a child headed household is an occupant under the age of 18.

7.4.2 Such Child Headed Household may receive a rebate, from a date as determined by the CFO, subject to the following–

- a) the terminally ill parent(s), the child or the deceased estate of the parent(s) as aforesaid must be the owner of the property;
- b) the application must be accompanied by:
  - i) confirmation from the Department of Social Development that the above criterion have been met and that the property is one that is a child headed household;
  - ii) in the case of deceased parents:
    - aa) a copy of the letter of Executorship or Administration of the Deceased Estate;
    - bb) a copy of the Liquidation and Distribution Account or Statement of Assets and Liabilities, showing transfer of the property to the minors; and
    - cc) the death certificate of the parent(s);
  - iii) a certified copy of the Medical Report confirming his or her medical status if the parent is terminally ill; and
  - iv) the birth certificates of minors residing on the property;
- c) the minors must reside permanently on the property;
- d) the value of the applicant's property must not exceed a value as determined by a resolution of Council at its annual budget; and
- e) an application for a rebate must be renewed annually and endorsed by the Department of Social Development Welfare, as contemplated in (b) above.

7.4.3 The rebate will lapse:

- a) once the minor reaches the age of 18;
- b) on alienation of the property;
- c) when the minors ceases to reside permanently on the property;
- d) if the Department of Social Development no longer regards the Household as being a Child Headed Household; or
- e) if applications are not submitted annually; late applications may be reinstated with effect from the next practical billing cycle.
- e)f) When the property undergoes a category change and no longer meets the qualifying criteria for Relief.

## 7.5 **PUBLIC BENEFIT ORGANISATIONS**

7.5.1 A Public Benefit Organisation which carries out a public benefit activities listed below, on property registered in its name and which satisfies the criteria set out in **7.5.2**, may apply for an exemption from the payment of property rates:-

- i) Welfare & Humanitarian  
Orphanage, Non-profit retirement village, Life – rights scheme; Old age home.
- ii) Health Care  
Hospital, clinic or mental hospital.
- iii) Animal Welfare  
Care of animals, reptiles and/or birds including the rehabilitation, or prevention of the ill-treatment thereof.
- iv) Education and Development  
Training, education and/or rehabilitation of persons with severe physical or mental disability.

- v) Cultural  
Cemetery and/or crematorium;  
Promotion, protection, preservation or maintenance of a property with Heritage Landmark status under the Heritage Act and open to the public.

7.5.2 An Exemption shall be subject to the following conditions:

- i) The Public Benefit Organisation must own the property.
- ii) The Public Benefit Organisation must produce a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962), and also, a tax clearance certificate confirming that the Public Benefit Organisation is in good standing.
- iii) The Public Benefit Organisation must produce its Audited Financial Statements for assessment by the CFO.
- iv) The CFO has the right to conduct a full financial analysis and credit check of the Public Benefit Organisation and to call for such other documents as may be considered relevant to the consideration of the application.
- v) All municipal accounts held in the name of the Public Benefit Organisation must be up to date at date of the application, or the Public Benefit Organisation must have concluded a suitable arrangement with the Municipality in terms of its Credit Control and Debt Collection Policy.
- vi) The Public Benefit Organisation must produce a Special Consent Authority or a Zoning Certificate from the Municipality's Land Use Management Department confirming that the use of the property is not in breach of any planning law or Planning Scheme.
- vii) The exemption will only be granted after an official application has been made and approved by the CFO.
- viii) The Municipality retains the right to refuse an application for exemption if the details supplied on the application form are incomplete, incorrect or false.



- ix) The use of any land or buildings, or any part thereof, in terms of clause 7.5.1 above, shall not be for the private pecuniary benefit of any individual, whether as a trustee in a trust, shareholder in a company or otherwise.
- x) Notwithstanding compliance with all the conditions set out in clause 7.5.2, an application from a Public Benefit Organisation may be refused if an assessment of the Audited Financial Statements shows that the Public Benefit Organisation is not adhering to the criteria/conditions for Public Benefit Organisations as set out in Section 30 of the Income Tax Act 58 of 1962, as amended read together with the Ninth Schedule thereto.
- xi) If, during the currency of any Municipal financial year, any exempted property is used for any purpose other than the purpose for which it was so exempted, the owner shall become liable to the Municipality for any rates that, had it not been for the exemption, would have been payable on the property with effect from the date the event occurred. The amount for which the owner becomes liable shall be regarded as rates in arrears and the owner shall be liable, in addition to the rates, to pay to the Municipality interest thereon at the rate prescribed in the Municipality's Credit Control and Debt Collection Policy.
- xii) The property shall not be owned by the State.
- xiii) Application for exemption must be made on an annual basis, by no later than 30 April preceding the new Municipal Financial Year. A failure to do so will result in the Public Benefit Organisation not qualifying for the exemption for that particular Municipal Financial Year.
- xiv) An exemption granted, will apply for the full Municipal Financial Year unless the reason for granting the exemption ceases to apply during the year.

## **7.6 LIFE RIGHTS SCHEMES AND RETIREMENT COMPLEXES**

7.6.1 Where a property does not qualify for exemption from rates under **7.5.1 (i)** above, the owner of a property on which a Life Rights Scheme or a retirement complex has been developed, may, on application, receive a rebate not exceeding an amount or a percentage as determined by Council at its annual budget.

7.6.2 Qualifying Criteria–

- a) the scheme/~~complex~~/development must be registered in terms of the Housing Development Schemes for Retired Persons Act 65 of 1988;
- b) the scheme/~~complex~~/development must be registered with and regulated by the South African Association for Homes for the Aged (SAHA); and
- c) the Title Deeds of the property must be appropriately endorsed.

## **7.7 COMMERCIAL ACCOMMODATION**

On approval of an application, commercial accommodations specified hereunder, may receive a rebate not exceeding an amount and or a percentage as determined by Council at its annual budget.

### **7.7.1 Qualifying Criteria for Bed & Breakfast / Guest-house/Back-packer lodge/Holiday Accommodation:**

- a) The owner of the property, except for Holiday Accommodation, must permanently reside on the property. In the case of a Company, Close Corporation or Trust being the registered owner, at least one director/member/trustee thereof must reside permanently on the property, subject to any of the members of such companies, close corporations and trusts not being a member of another company, close corporation or trust that owns a Bed and Breakfast establishment, Guest House or Back-packer lodge within the jurisdiction of the Municipality.
- b) The Bed & Breakfast / Guesthouse / Back-packer lodge/Holiday Accommodation must be registered with a CTO and **EDTEA**.The

applicant must meet the criteria set by Durban Tourism and all membership fees or other fees payable to Durban Tourism and the CTO must be paid up to date.

- c) The applicant must provide details of the establishment in respect of total size of developed property, total number of rooms and facilities available to guests. This will be required to be certified by Durban Tourism.
- d) A permit/licence in terms of the "Accommodation Establishment [Bylaws MN 228/1993](#), and Town Planning approval must accompany the application.
- e) The CTO must certify the rebate renewal application.

#### **7.7.1.1 Rebates**

The establishment will be rated as a Business and Commercial property.

##### **a) Bed & Breakfast / Guest-houses –**

- i) Where up to 8 beds are available to guests, a rebate not exceeding an amount as determined by Council at its annual budget, will apply.
- ii) Where between a minimum of 9 and a maximum of 20 beds are available to guests, a rebate not exceeding an amount as determined by Council at its annual budget, will apply.

##### **b) Back –packer lodges –**

- i) Where up to 40 beds are available to guests, a rebate not exceeding an amount as determined by Council at its annual budget, will apply.
- ii) Where up to 80 beds are available to guests, a rebate not exceeding an amount as determined by Council at its annual budget, will apply.
- iii) Where more than 80 beds are available to guests, a rebate not exceeding an amount as determined by Council at its annual budget, will apply.

##### **c) Holiday Accommodation–**

A property let out for the purposes of holiday accommodation, may receive a rebate not exceeding an amount or a percentage as determined by Council at its annual budget.

#### 7.7.2 Student Accommodation–

A property let out for the purpose of accommodating registered students and or learners of higher education, may receive a rebate not exceeding an amount and or a percentage as determined by Council at its annual budget and the following criteria must be met.

##### QualifyingCriteria:

- a) Owners must apply annually. Failure to apply will result in a lapse of the rebate.
- b) A list of students and student registration certificates must accompany the application.
- c) There must be at least four (4) learners or students occupying the property.
- d) The property must be available to students or learners for a period exceeding 180 days in any given year.
- e) Lease agreements with higher education Institutions and or with the student or learner, where applicable must be included.
- f)g) A copy of a permit or approval as may be required by law for the conduct of a student accommodation establishment must be provided. (e.g. planning consent; a permit/licence issued under the Accommodation Establishment Bylaws MN 228/1993), duly certified by a Commissioner of Oaths as a true copy of the original document.
- g)h) A clearance certificate from the Municipality's Environmental Health Unit.

## **7.8 SCHOOLS NOT FOR GAIN.**

7.8.1 A School Not for Gain may be granted a rebate subject to the following conditions:

- a) the applicant must produce a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962);
- b) the ~~Municipal Manager or his nominee~~CFO must approve all applications;
- c) the Municipality retains the right to refuse an application if the details supplied in the application form are incomplete, incorrect or false;
- d) the use of any land or buildings, or any part thereof, shall not be for the private pecuniary benefit of any individual, whether as a shareholder in a company or otherwise; and
- e) if during the currency of any Municipal financial year, any such land or building is used for any purpose other than the purpose for which it was so granted a rebate, the Municipality shall impose rates thereon or on such portion so used, at a rate proportionate to the period of such use.
- f) The School Not for Gain must produce its Audited Financial Statements for assessment by the CFO.
- g) The CFO has the right to conduct a full financial analysis and credit check of the School Not for Gain and to call for such other documents as may be considered relevant to the consideration of the application.

## **7.9 SPORTING BODIES**

7.9.1 Sporting bodies shall be rated on the value of the building area used for commercial purposes only or as stipulated in the lease agreement with the Municipality.

7.9.2 The building area shall exclude change rooms and store rooms necessary for the sport.

7.9.3 Applicants must produce a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962).

#### **7.10 MUNICIPAL PROPERTIES**

All municipal owned properties are exempted from property rates, except for Trading Services and Municipal owned properties where the Municipality has entered into any agreement indicating otherwise.

#### **7.11 NATURAL AND OTHER DISASTERS**

7.11.1 Properties that have been damaged by a natural disaster, as defined in terms of the Disaster Management Act 2002 (Act 57 of 2002) may be re-valued on application, as at date of such natural disaster, in accordance with the Act.

7.11.2 Where property has been damaged by causes other than that defined by the Disaster Management Act, and such damage renders the property uninhabitable, then, on application, the Municipality may grant a six month temporary rebate, from the date of damage to the property.

7.11.3 A further temporary rebate, may be granted thereafter, on application.

7.11.4 This provision excludes damage to property by arson.

#### **7.12 VACANT LAND**

7.12.1 Subject to clause 7.12.3 below, the Municipality may grant a reduction in market value of all vacant land, not exceeding an amount as determined by Council at its annual budget.

7.12.2 Vacant land which is considered developable in terms of the Municipality's Town Planning Schememay not be granted such reductionin market value.

### 7.13 CONSULATES

Consulates are exempted from paying municipal property rates, however where a Consulate claims an exemption from rates, such rates shall be payable by the Department of International relations and Co-operation.

### 7.14 OTHER IMPERMISSIBLE RATES

- a) The Municipality will not levy a rate where it is impermissible to do so in terms section 17 of the Act. Clauses 7.14.1 to 7.14.3 provide instances (not exhaustive) where the levying of rates is impermissible.
- b) The Municipality shall be entitled to request such documents as approved by the CFO, from owners of property, in order to ensure adherence to section 17 of the Act.

#### 7.14.1 LAND REFORM BENEFICIARIES

In accordance with the Act, property belonging to a land reform beneficiary or his/her heirs,dependants or spouse, is exempt, from rates for ten (10) years from date on which the beneficiary's ies' title was registered in the office of the Registrar of Deeds; provided that such exemption lapses upon alienation of the property by the land reform beneficiary or his/her heirs, dependants or spouse.-

#### 7.14.2 PUBLIC SERVICE INFRASTRUCTURE

Rates will not be levied on the first 30% of marketvalue of In accordance with the Act, Public Service Infrastructure (PSI) referred to in paragraphs (c), (d), (f), (i) and (j) of the definition of PSI in the Act will not be rated on the first 30% of the value.

The Municipality will not rate property referred to in paragraphs (a), (b), (e), (f) and (h) of the definition of PSI in accordance with the Act.

### **7.14.3 NATURE RESERVES / CONSERVATION AREAS**

- 7.14.3.1 Nature Reserves and Conservation areas which are proclaimed in terms of the National Environmental Management: Protected Areas Act 2003 (Act 57 of 2003) shall be excluded from rates.
- 7.14.3.2 Newly Proclaimed Nature Reserves/Conservation areas shall receive exclusion upon application and production of the relevant Proclamation.
- 7.14.3.3 Nature Reserves not proclaimed as aforesaid, shall be rated as vacant land and may be excluded from rates, once the owners are in receipt of an Environmental Certificate in terms of **7.14.3.4** below.
- 7.14.3.4 Upon application to the Environment Planning and Climate Protection Department, an Environmental Certificate may be granted to owners of any piece of land or part thereof, where:
- a) The Municipality considers the land to be environmentally sensitive, e.g. it forms part of the Durban Metropolitan Open Space System (DMOSS);
  - b) The land is zoned for conservation purposes or an environmental servitude has been registered in favour of the Municipality over the environmentally sensitive area; and
  - c) The landowner, with the assistance of the Municipality, prepares and implements an approved management plan aimed at protecting and improving the local environment.
- 7.14.3.5 Where the land is not zoned for conservation purposes and an environmental servitude has not been registered in favour of the Municipality, an owner may be granted a reduction or rebate, provided the owner has agreed to the Municipality rezoning the affected land to protect the environment.
- 7.14.3.6 The owner of a Nature Reserve / Conservation area cannot receive a reduction or rebate on the Nature Reserve/Conservation area



component of the property in addition to the rate benefits in terms of 7.13.3.4 above.

7.14.3.7 The Environmental Certificate will lapse if the property is no longer used for bona fide environmental conservation purposes, in which event, the property will be rated on its new use from date of such use.

7.14.3.8 Parks and environmental protection areas within a Home Owners' Association shall receive an exemption once a servitude restricting its use is registered or the land is zoned for environmental protection.

## 8. AGRICULTURAL PROPERTY

8.1 In order for a property to fall within the definition of "Agricultural Property" in the Act and meet the requirement that such property is used primarily for agricultural purposes, an Property shall be rated as Agricultural Property once the owners are in receipt of an Agricultural Certificate must be issued by the Municipal Valuer as contemplated in clause 8.2 below. from the Real Estates Unit.

8.2 The Owner must make application for an agricultural certificate on a prescribed form. Upon application therefore,

8.3 a) An Agricultural Certificate may be granted to an owners of any piece of land or part thereof, on the following basis:

- a) The Municipal Valuer is satisfied that such land is used exclusively for *bona fide* agricultural purposes or subsistence farming;
- b) AnThe owner must apply annually application has lodged with to the Real Estate Unit, by no later than 30th April preceding the start of the new Municipal year for which the agricultural certificate is sought;

- e) The certificate must be issued by the Municipal Valuer; and
- d)c) The Owner Applicants has must produced a tax certificate, (such as an IT34 certificate) issued by the South African Revenue Services (SARS) proving that they are taxed as a farmer or a mill contract (e.g. in the case of sugar cane) proving that he/she is an active farmer.

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8.43 The owner of agricultural property cannot receive reduction or rebate on the agricultural component of the property in addition to the agricultural randage.

8.5 Once the application referred to in clause 8.2 above, is approved, it must be renewed annually in the prescribed form, and must reach the Municipality no later than 30 April preceding the new Municipal financial Year.

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## 9. SPECIAL RATING AREAS IN TERMS OF SECTION 22 OF THE ACT

### 9.1 DETERMINATION OF SPECIAL RATING AREAS

9.1.1 At the request of the community, the Municipality may, by resolution of the Council, establish a Special Rating Area, wherein an additional rate on property in that area for the purpose of raising funds for improving or upgrading that area will be levied.

9.1.2 Subject to the provisions of the Act:-

9.1.2.1 Any Relief ~~rebate or reduction~~ granted in terms of section 7 of this Policy does not apply to the additional rate payable by the property owner within a SRA.

9.1.2.2 The additional rate will apply to all properties within a SRA including those ~~owned by Organs of State~~(as defined in the Constitution) but ~~excluding those properties that are owned by or vested in the Municipality.~~

**Commented [M14]:** What are about those properties Owned by State Organs and are used for community service provision like your Hospitals, Police etc, are they also include.

NN: YES

9.1.3 Any SRA enquiry may be directed to a Sizakala Centre of the Municipality.

**Commented [M15]:** Enquiry on or before the determination of the SRA. Before the determination of the SRA the information that might be required might be technical, hence the question.

NN: Sizakala facilitates all enquiries to the relevant department .

### 9.2 APPLICATION

9.2.1 An application for the determination of a special rating area must be preceded by the holding of a public meeting.

9.2.2 The purpose of the public meeting is:

9.2.2.1 to consult the local community, including on the following matters-

(a) The proposed boundaries of the SRA; and

(b) The proposed improvement or upgrading of the SRA; and

9.2.2.2 to obtain the consent of the majority of the members of the local community in the proposed SRA who will be liable for paying the additional rate, and

9.2.2.3 to identify a representative group of owners to convene a Steering Committee and take the process of the proposed SRA forward, provided that the wish of a majority of those present at the meeting, supports the application for a SRA in principle. The names of the members of the Steering Committee must be communicated to the CFO.

~~9.2.2 enable the applicant to consult with those owners within the proposed special rating area with regard to the proposed boundaries and the proposed improvement or upgrading of the area.~~

9.2.3 Prior to the holding of the public meeting, the applicant must, in addition to complying with clause 9.2.5 below, give notice by pre-paid registered post, hand delivery (with proof of receipt), email or sms or in any other manner approved by the CFO, to all owners of rateable properties within the proposed boundary.

9.2.4 The notice must convey the applicant's intention to apply for the establishment of a special rating area, and must:

- 9.2.4.1 state the purpose of such meeting;
- 9.2.4.2 contain details of the place, date and time when such meeting is to be held;
- 9.2.4.3 include the proposed boundaries and supplementary services;
- 9.2.4.4 include the proposed annual budget and additional property rate;
- 9.2.4.5 include the final date by which objections may be lodged; and
- 9.2.4.6 include the EThekweni Municipality's address where proposals may be inspected and objections may be lodged.

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**Commented [M16]:** We are foreseeing the Committee as envisaged in The Act here??

NN: Not necessarily. The legal support section is working on a revised section 9 of this policy but will not be ready for the march budget resolutions. Therefore status quo must remain.

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- 9.2.5 The applicant must cause a notice of the application to be published in a newspaper circulating within the jurisdiction of the proposed special rating area at least 10 working days (excluding weekends and public holidays) before the meeting to which reference is made in clause 9.2.1 above.
- 9.2.6 Every notice contemplated in terms of clause 9.2.5 must state that written objections to the establishment of a special rating area, or the provisions of the motivation report and implementation plan may be lodged with [the EThekweni Municipality](#) by a date specified in the notice.
- 9.2.7 Any owner of property who will be liable for paying the additional rate may submit written objections to the establishment of the special rating area, which objections must be received by [the EThekweni Municipality](#) not later than 30~~44~~ working days after the date of public meeting referred to in clause 9.2.1.
- 9.2.8 The public meeting must be held not less than 10 working days (excluding weekends and public holidays) and not more than 30 working days after the date of the notice as specified in clause 9.2.4 and 9.2.5 above.
- 9.2.9 The public meeting must be held at such place, date and time as stated in the notice, provided that it must be held at a place which is within the boundaries of the proposed special rating area, unless the CFO approves another venue in writing before the public meeting is held.
- 9.2.10 The public meeting must be attended by a representative from [the EThekweni Municipality](#).
- 9.2.11 Interested persons must, at the public meeting, be–
- 9.2.11.1 furnished with all relevant information relating to the proposed special rating area, including the information to be set out in the motivation report and implementation plan; and
  - 9.2.11.2 given an opportunity to ask questions, express their views and make representation.

9.2.12 The application, including the business plan and the implementation plan, and all objections must be available for inspection at the offices of the Municipality, for the period referred to in clause 9.2.7 above.

### 9.3 ESTABLISHMENT

9.3.1 An SRA may be established once the following criteria have been fulfilled:

9.3.1.1 the boundaries of the SRA must be defined and all properties within the area to be adjacent to each other;

9.3.1.2 the SRA must contain not less than 200 properties, or the total value of the properties must exceed a value as determined by Council from time to time; ~~and~~

9.3.1.3 a Non-profit company has been registered in terms of the Companies Act 71 of 2008 to manage the SRA.

9.3.1.4 ~~The determination of the Special Rating is consistent with the Objectives of the Municipality's IDP; and~~

9.3.1.5 ~~there is evidence that it will be financially viable to use a special rating area to raise funds for the proposed improvement or upgrade~~  
~~9.3.1.3~~

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9.3.2 In order for the application to be considered, sufficient number of property owners falling within proposed boundaries must sign the form prescribed by the Municipality, ~~from time to time~~, to demonstrate that:

9.3.2.1 at least 66% of owners\* in number and 51% of the value of the property have voted in favour of the establishment of the SRA; or

9.3.2.2 in the case of properties categorized as 'Business and Commercial', at least 51% of owners\* in number voted in favour of the establishment of the SRA; provided that residential owners will be zero rated in respect of the additional rate.

9.3.2.2 \* each registered property is entitled to one (1) vote

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9.3.3 Such application shall be accompanied by a motivation report the non-profit company's budget, business plan and implementation plan on the management of the SRA, by not later than 31 August preceding the start of the new Municipal financial year for which the application is made.

#### **9.4 STRUCTURES AND FINANCE**

9.4.1 The SRA Mmanagement Ceompany must enter into a Finance Agreement with the Municipality in terms of section 67 of the Municipal Finance Management Act incorporating a business plan and service level criteria, as determined by the CFO. Funds will not be transferred to the SRA Mmanagement Ceompany unless such Agreement is signed and received by the Municipality.

9.4.2 Once the SRA has been approved by a Resolution of Council at its aAnnual bBudget meeting and the Finance Agreement has been signed, the Municipality will levy the special rate. Funds collected will be paid in terms of such Agreement.

9.4.3 The SRA Mmanagement Ceompany must commence with the provisions of the implementation plan within two months of receipt of funds in the first year of operation.

9.4.4 The Finance Agreement must be renewed annually by not later than 31 December, together with the budget of the SRA for the forthcoming Municipal financial year.

9.4.5 An increase or decrease in the property valuation or a change in the category of property during the course of a Municipal financial year shall not impact on the special rate adopted by Council for that year.

#### **9.5 AMENDMENT TO BOUNDARIES**

- 9.5.1 The boundaries for existing SRA's may be amended, provided–
- 9.5.1.1 the additional areas are adjacent to the current boundaries;
  - 9.5.1.2 51% of additional owners in number relating to properties categorized as Business and Commercial only, having signed the prescribed form, demonstrate their support; or
  - 9.5.1.3 66% of additional owners\* in number ,having signed the prescribed form, demonstrate their support; or
  - 9.5.1.4 66% of the existing owners\* in number, having signed the prescribed form, demonstrate their support.

9.5.2 Amendment to boundaries shall be treated as a new application as contemplated in clause 9.2 above, with the exception of having to form a new SRA Management Company Body.

9.5.3 The new SRA boundary may not exceed 100% of the existing SRA boundary in size.

9.5.4 Council may limit the increase of the new geographical boundary or the number of the new properties to be incorporated.

\* Each registered property is entitled to one (1) vote

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Commented [M17]: This insertion might prove problematic and be subject to abuse by an owner who has multiple properties in an Area.

I would rather suggest that the percentage of vote be linked to actual owner rather than to a property. One owner one vote situation.

NN: Do not agree, Cannot limit voting right where a multiply property owner will be one of the most affected should the additional rates be levied in that proposed SRA

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**9.6 DISSOLUTION OF A SPECIAL RATING AREA**

- 9.6.1 An SRA may be dissolved by a Council Resolution if–
- 9.6.1.1 the Finance Agreement as aforesaid has not been renewed or honoured;
  - 9.6.1.2 51% of owners\* in number relating to properties categorized as 'business & commercial' only,having signed the prescribed form, have voted in favour of disestablishment; or
  - 9.6.1.3 66% of owners\* in number, having signed the prescribed form, have voted in favour of disestablishment.

9.6.2 The effective date of dissolution shall be on the last day of June in the Municipal\*financial year of the Council resolution.

\* Each registered property is entitled to one (1) vote

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## 10. **PROPERTIES USED FOR MULTIPLE PURPOSES**

Commented [M18]: Please see suggested insertion after reading letter from COGTA.

NN: Do not agree, we want specific reference to be made to section 9(1) (c). This obviates all confusion and aligns with the rates bylaw, in addition to unpacking section 9(1)(c) in the policy.

10.1 A rate levied on Pproperties used for multiple purposes will, for rating purposes, be dealt with in terms of section 9(1)(c) of the Act and rates levied on such property will be determined by-

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10.1.1 apportioning the market value of the property to the different purposes for which the property is used; and

Commented [M19]: How will the apportionment be done. Might also be good and wise to explain in this section.

NN: Do not agree, 10.1.1 and 10.1.2 explains how the apportionment is done.

10.1.2 applying the rates applicable to the appropriate categories listed in clause 5.6 above, to the different market value apportionments.

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## 11. **ABANDONED, UNAUTHORISED OR ILLEGAL DEVELOPMENT / USE**

Where a property is abandoned, developed or used illegally in contravention of National Legislation, and or the Municipality's By-laws, Regulations, the Land Use Scheme or any other applicable law, the Municipality may change its category to the Unauthorised or Illegal Development / Use category.

## 12. **RURAL RESIDENTIAL PROPERTY and RATEABLE RURAL PROPERTY**

12.1 Individual structures, on Rural Residential ~~property~~land identified by the Municipality, may be valued and rated on individual accounts notwithstanding the non-registration of any subdivisions.

12.2 Individual structures on Rateable Rrural Pproperty may be valued and rated on individual accounts notwithstanding the non-registration of any subdivisions.



12.3 Notwithstanding the individual accounts, the owner of the property remains liable for rates.

### **13. SECTIONAL TITLE PROPERTIES**

13.1 Exclusive use areas registered with the Registrar of Deeds shall be valued together with the units concerned.

13.2 Exclusive use areas in terms of the Rules of the Body Corporate shall form part of the common property.

13.3 Units not used for residential purposes shall not benefit from residential rebates or reductions.

13.4 The Municipality may value real rights of extension, and such rights shall be rated in accordance with the vacant land rate.

13.5 Where a developer pursues a phased development, the bulk land shall be valued in accordance with **13.4** above.

13.6 Where rights are being traded, the rights may be included in the valuation roll.

13.7 Where a Share Block Company as defined by the Share Blocks Control Act 1980 (Act no. 59 of 1980) has opened a Sectional Title Register in respect of residential land and buildings to which the Share Block Scheme relates, then, only residential sectional title unit owners may qualify for rebates under 7.2, 7.3 and 7.4 above, provided they meet the necessary criteria as set out by the Municipality from time to time.

### **14. ECONOMIC DEVELOPMENT**

- 14.1 In order to stimulate development within the City, rates rebates, as an incentive, may be granted on application and approval thereof. The rebates and criteria shall be determined annually by Council as part of the budgeting process.
- 14.2 The rates rebate (incentive) will be subject to the Economic Development Incentive Policy as approved by Council of which the Economic Development and Investment Promotion Unit is the custodian.
- 14.3 Every individual application for the rates rebate (incentive) accompanied by relevant supporting documentation, shall be approved by Council together with the agreement to be concluded between the Municipality and the owner of the property (the "Contracting Party").
- 14.4 In relation to a Greenfield Investment, the vacant land may receive a rebate on the difference in rate randage of the intended use of the developed land, on approval of development plans based on the following criteria–
- a) rebate shall be according to category rate randage of property to approved building plan;
  - b) the rebate shall be for a defined period;
  - c) the Contracting Party shall be under obligation to complete the development within a defined period, and
  - d) Subject to annual inflationary linked increases, the rebate shall remain the same, until such time as a completion certificate has been issued by the Municipality in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), as amended or upon expiry of the defined period, whichever is the earlier, as per the agreement between the Municipality and the Contracting Party.
  - e) Notwithstanding d) above, in the case of a development with a total investment value of R1 billion or more, where:
    - i) a registrable subdivision is developed and a completion certificate has been issued; or
    - ii) a Certificate of Registered Title has been issued by the Deeds Registry in respect of a subdivision,

such subdivision will be excluded from the rebate and will be rateable in terms of the Act.

14.5 In relation to a Brownfield investment, a rebate as approved by Council, on individual applications may be granted for prioritized areas earmarked by the Municipality, based on the following criteria–

- a) approved Building plan shall be in place;
- b) the development shall be for a defined period;
- c) the Contracting Party shall be under a non-renewable contractual obligation to complete the development within a defined period; and
- d) Subject to annual inflationary linked increases, the rebate shall remain the same, until such time as a completion certificate has been issued by the Municipality in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), as amended or upon expiry of the defined period, whichever is the earlier, as per the agreement between the Municipality and the Contracting Party.
- e) Notwithstanding d) above, in the case of a development with a total investment value of R1 billion or more, where:
  - i) a registrable subdivision is developed and a completion certificate has been issued; or
  - ii) a Certificate of Registered Title has been issued by the Deeds Registry in respect of a subdivision,such subdivision will be excluded from the rebate and will be rateable in terms of the Act.

14.6 A Rebate is:

- a) application driven;
- b) for a defined period;
- c) dealt with on its own merit; and
- d) subject to the Council approval through the budget process and Budget availability.

14.7 Where a development is complete and there is subsequent occupation but transfer of ownership has not taken place, the Contracting Party shall be liable for the relevant taxes and any other municipal debt arising out of such occupation.

14.8 If the Contracting Party receives the rates rebate in error, the Municipality reserves the right to reverse the rebate in the manner it deems fit.

14.9 The agreement contemplated in 14.3 above may, with the prior consent of the Municipality in writing, be ceded to a successor in title of the Contracting Party.

## **15. MULTIPLE ENTRIES IN THE VALUATION ROLL**

15.1 On application, unregistered long leases on land owned by the State or a State Entity may, at the discretion of the Head: Real Estate be valued and rated per lease boundary, the costs of which shall be borne by the Applicant.

15.2 Notwithstanding such valuation and rating, the owner of the land shall remain responsible for the rates on such land.

## **16. PAYMENT AND RECOVERY OF RATES**

16.1 Payment and recovery of rates shall be governed by the Municipality's Credit Control and Debt Collection Policy.

16.2 The lodging of an objection or appeal does not defer liability for the payment of rates beyond the date determined for payment;

## 17. GENERAL

17.1 The CFO or his nominee may hear representations where applications for rebates or exemptions have been rejected and his/nominee may take a decision, based on the spirit of the Policy, which is binding.

## 17.2 DEFERMENT OF RATES

17.2.1 The Municipality may on application defer the payment of rates in terms of section 26(3) of the ActMPRA, only, under the following special circumstances. To qualify for deferment of rates, the Applicant

17.2.1.1 must be temporarily unemployed for a period not exceeding 3 months as at the date of application;

17.2.1.1.1 must substantiate his/her application with a letter by the Department of Labour confirming unemployment status;

17.2.1.1.2 must produce an unemployment Insurance Fund (UIF) card; where an applicant was employed in a formal sector;

17.2.1.1.3 must produce a permit issued by the Municipality's Business Support (Informal Trade) Unit; where an applicant was employed in the informal sector;

17.2.1.1.4 must furnish an affidavit confirming his/her unemployment status; and

17.2.1.1.5 must produce any other relevant documents that the CFO may request from time to time;

17.2.1.2 must reside permanently on the residential property concerned; and

17.2.1.3 must be the registered owner of the residential property.

17.2.2 Application must be made in writing on the prescribed form.

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NN: Amended

17.2.3 Subject to clause 17.2.5, a deferment period shall endure for a period of 6months, calculated from the date of approval.

17.2.4 The Municipal account must be up to date at the date of application, in order for the application to be considered.

17.2.5 Any deferment granted in terms hereof shall terminate immediately–

17.2.5.1 upon the death of the registered owner; provided that the Council may continue such deferment, in any case where it is established to its satisfaction that the property concerned has been inherited by the surviving spouse and that such spouse is continuing in occupation of the property;

17.2.5.2 upon the expropriation, sale or other disposal of the property concerned;

17.2.5.3 upon the owner ceasing to reside permanently on the property concerned;

17.2.5.4 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 concerned, after allowing for the amount of the deferment;

17.2.5.5 Upon the applicant becoming formally or informally employed or trading for his/her own account; or

17.2.5.6 on expiry of the period of deferment.

17.2.6 Deferment of rates payment will not be granted simultaneously with any rates rebate provided in this Policy, i.e. the ratepayer will not enjoy a deferment simultaneously with a rebate.

17.2.7 It is recorded that certain unsold properties within Special Zone 91, being the Point Waterfront development, the area of which is depicted on the Municipality's Planning Scheme Map, are the subject of rates deferment granted to the developer and registered owner of the sites, Durban Point

Development Company Pty Ltd, in which the Municipality has a 50% shareholding interest.

Per Council resolution dated 28 October 2015, and in terms of section 26(3) of the [Act/MPRA](#), Council approved the deferment of rates in respect of properties still registered in the name of the Durban Point Development Company Pty Ltd, for the period 1 July 2014 to 30 June 2019 with the proviso that when transfer of any land parcel takes place to any other party, rates will become payable by the new owner and the deferred portion on the property in question, will be due and payable. Any rates accrued up to the point of sale on the remaining properties will remain deferred until the expiration of the deferment period of 30 June 2019, at which date the entire accumulated amount will become due and payable.

## 18. SUPPLEMENTARY VALUATIONS

18.1 Subject to section 18.2 below, rates on a property based on the valuation of that property in a supplementary valuation will become payable as determined in terms of section 78 of the Act.

18.2 In the case where there was a change in the category of a rateable property as contemplated in section 78(1)(g) of the Act, rates on such property shall become payable on the date on which the change of category occurred or on the date on which the supplementary valuation reflecting the change, was completed, whichever date is the earlier subject to the provisions of section 18.3 and 18.4.

**Commented [NN21]:** This is a rates issue and the playability of rates. This was vetted by Legal last year and we would like it to remain as it is.

18.3 If it is not possible to determine the exact date on which the change of category occurred, the CFO may determine such date and may have regard to the following:

18.3.1 the date of issue of a Certificate by the Development Planning and Environmental Management Department indicating abandoned, unauthorized or illegal development/use as contemplated by section 11 of this Policy;

18.3.2 the date of issue of a Certificate by the Real Estate Unit following an inspection of the property;

18.3.3 any records or correspondence confirming the date of change of category;

18.3.4 any enforcement /compliance or other notice issued in terms of any law, indicating a change of category; and

18.3.5 any other factors which the CFO deems relevant.

18.4 Where the CFO has determined that the date on which the change of category referred to in section 78 (1)(g) of the Act preceded the date of transfer of the property to the current owner of the property, the date on which the change of category occurred will, for the purposes of section 78(4)(e) of the Act, be deemed to be the date of transfer to such current owner.

## 19. POLICY EVALUATION AND REVIEW

~~This is the 10th review of the original rates policy adopted by Council in 2008 in compliance with the Act.~~

~~Practical implementation issues, legislative requirements and where applicable, statistics are used to evaluate and review this policy. This policy is reviewed annually in terms of the Act.~~

~~Practical implementation issues, legislative requirements and where applicable, statistics are used to evaluate and review this policy. This policy is reviewed annually in terms of the MPRA.~~

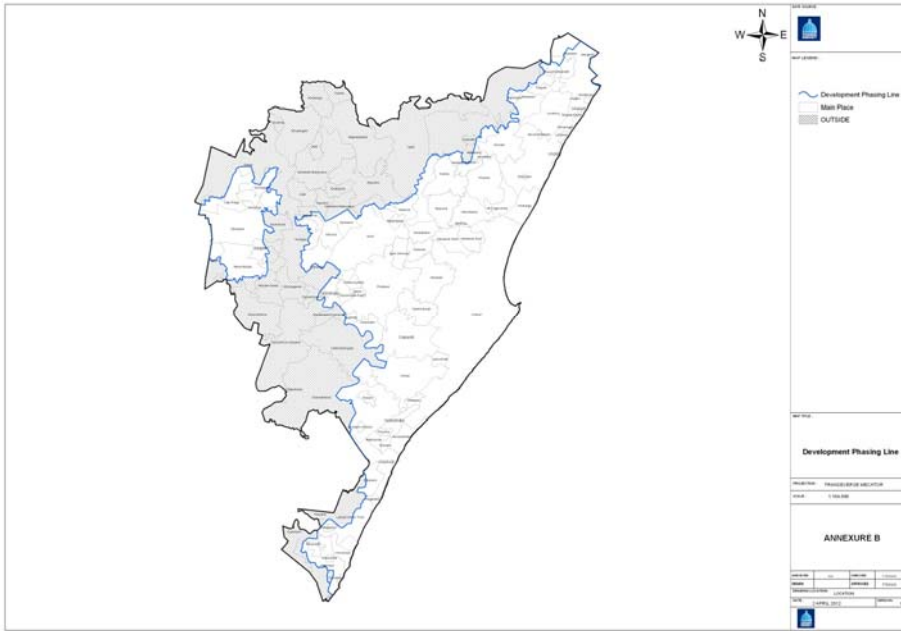
~~**THESE RATES POLICY AND PRESCRIBED FORMS ARE WILL BE AVAILABLE FOR PERUSAL FREE OF CHARGE AT CUSTOMER SERVICE CENTRES, SIZAKALA CENTRE OFFICES, AND THE CITY HALL, DURBAN AND ON THE**~~

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~~ETHEKWINI MUNICIPALITY WEBSITE [www.durban.gov.za](http://www.durban.gov.za). ALL MUNICIPAL OFFICES AND THE CITY HALL, DURBAN.~~

**ANNEXURE ~~AB~~**  
DEVELOPMENT PHASING LINE



**ANNEXURE BA**

<b>Rate Code</b>	<b>Rating Category</b>
1	Residential property
2	Agricultural property
3	Vacant Land
4	Industrial Property
5	Business and Commercial Property
8	Public Service Infrastructure properties
9	Development Phasing Line
22	Unauthorised or Illegal Development/Use
4	Mining Properties
1	Rateable Rural Property
1	Rural <del>Residential-Property</del>