

LOCAL AUTHORITY NOTICE 1036 OF 2016**CITY OF TSHWANE****NOTICE OF THE MUNICIPAL PROPERTY RATES BY-LAWS AND POLICY**

The City Manager of the City of Tshwane Metropolitan Municipality hereby publishes in terms of Sections 5 and 6 of the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004), read with section 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), Section 13 of the Local Government: Municipal System Act, 2000 (Act 32 of 2000) and Section 162 of the Constitution of the Republic of South Africa, 1996 (Act 1098 of 1996); the City of Tshwane Metropolitan Municipality: Property Rates Policy and the Property Rates By-Laws, as contemplated in the hereunder and approved by the said Council on 30 May 2016.

The said By-Laws and Policy comes into operation with effect from 1 July 2016.

JASON NGOBENI
CITY MANAGER

(Notice 234 of 2016)
29 June 2016

PROPERTY RATES BY-LAWS

To provide for By-laws to give effect to the rates policy of the municipality in terms of section 6 of the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004), and to provide for any matters incidental thereto.

PREAMBLE

WHEREAS the Constitution of the Republic of South Africa, 1996, entitles municipalities to impose rates on property in their areas, subject to regulation in terms of national legislation;

AND WHEREAS the Constitution enjoins local government to be developmental in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities;

AND WHEREAS there is a need to provide local government with access to a sufficient and buoyant source of revenue necessary to fulfil its developmental responsibilities;

AND WHEREAS 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;

AND WHEREAS it is essential that municipalities exercise their power to impose rates within a statutory framework that not only enhances certainty, uniformity and simplicity across the nation, but also takes into account historical imbalances and the rates burden on the poor;

AND WHEREAS the Constitution and other legislation confers on the Municipality the power to regulate the exercise by municipalities of their fiscal powers; and

AND WHEREAS the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004) came into effect on 2 July 2005.

BE IT THEREFORE ENACTED by the City of Tshwane Metropolitan Municipality, as follows:

CHAPTER 1

Definitions

In these by-laws, any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004, bears that meaning, and unless the context indicates otherwise –

1. "Act" means the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004) and "MPRA, 2004" shall have the same meaning;
2. "Agricultural property": in terms of the Municipal Property Rates Regulations, means property envisaged in section 8(2)(d)(i), (e), and (f)(i) of the MPRA, wherein:
 - (a) Section 8(2)(d)(i) refers to farm properties used for agricultural purposes;
 - (b) Section 8(2)(e) refers to farm properties not used for any purpose; and
 - (c) Section 8(2)(f)(i) refers to smallholdings used for agricultural purposes;

in relation to the levying of rates, and with reference to the definition as contained in the Municipal Property Rates Regulations on the Rate Ratio between Residential and Non-residential properties, means any farm property or smallholding not used for any purpose, or primarily used for *bona fide* farming and agricultural activity, meaning farm property or smallholding that is used for gain for purposes of the cultivation of soils, for purposes of planting and gathering of crops, forestry in the context of planting or growing of trees in a managed and structured fashion, the rearing of livestock and game, or the propagation and harvesting of fish, and this excludes, the use of a property primarily for residential, other business and commercial or industrial purposes, including the use of a property for the purpose of eco-tourism, any portion that is used for the accommodation of members of the public for gain, in respect of property on which game is reared, traded or hunted, and on which other animal is kept for sporting, recreational, domestic, or any purpose other than aforementioned";
3. "business/commercial" means a property used for the activity of buying, selling or trade in commodities or services and includes any office or other accommodation on the same erf, the use of which is incidental to such business, with the exclusion of the business of agricultural, farming or inter alia, any other business consisting of the cultivation of soils, the gathering in of crop or the rearing of livestock or consisting of the propagation and harvesting of fish or other aquatic organisms and shall include (properties of a township developer registered in a township title)commercial property as the case may be;
4. "Chief Financial Officer" means the Chief Financial Officer of the Municipality
5. "Constitution of the Republic of South Africa" means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
6. "Municipality" means the City of Tshwane Metropolitan Municipality established by General Notice 6770 in Provincial Gazette Extraordinary 141 of 1 October 2000 in terms of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998), and subsequent proclamations and amendments thereof and the acronym; "CoT" shall have the same meaning;
7. "council" means the Council of the Municipality;
8. "category"
 - (a) In relating to property means a category of properties determined in terms of section 8
 - (b) In relation to owners of properties means a category of owners determined in section 15(2)
9. "Educational institutions" as a property category for the levying of different rates, means properties registered as such as per applicable legislation, and this includes Private or Public primary and secondary schools, Universities, Colleges and Crèche's (regardless of whether subsidized or not), that are not registered for TAX exemption in terms of the Income Tax Act;
10. "grant-in-aid" means an additional grant awarded to persons who are in receipt of an old age grant, disability grant or war veteran's grant, and are unable to care for themselves;
11. "government property" or "state-owned property" means property owned and exclusively used by an organ of state, excluding farm properties used for residential or agricultural purposes or not in use and properties owned by parastatals or public entities;
12. "permitted use" in relation to property means 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
 - (iii) any legislation applicable to any specific property or properties
 - (b) any alleviation of any such restrictions;
13. "improvement" means any building or structure on or under a property excluding-
- (i) A structure constructed solely for the purpose of rendering the property suitable for the erection of any immovable structure thereon; and
 - (ii) Buildings, structures and equipment or machinery referred to in Section 46(3) of the Act;
14. "independent school" means a private school being a public benefit organisation of the kind referred to in items 4(a) of Part I and 3(a) Part II of the Ninth Schedule of the Income Tax Act, 1962;
15. "Income Tax Act, 1962" means the Income Tax Act, 1962 (Act No 58 of 1962);
16. "indigent" means any household that is legally resident in the Country and reside in the City of Tshwane's jurisdictional area, who due to a number of economic and social factors are unable to pay Municipal basic services as per the City of Tshwane Indigent Policy;
17. "Industrial" means a branch of trade or manufacturing, production, assembling or processing of finished or practically finished products from raw materials or fabricated parts, on so large scale that capital and labour are significantly involved. This includes factories and any office or other accommodation on the same property, the use of which is incidental to the use of such factory;
18. "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, or
 - (ii) the Restitution of Land Rights Act, 1994, or
 - (b) holds the property subject to the Communal Property Association Act, 1996;
 - (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.
19. "land tenure right" means land tenure as defined in section 1 of upgrading of Land Tenure Rights Act 1991 (Act 112 of 1991);
20. "mining" means any operation or activity for the purpose of extracting any mineral on, in or under the earth, water or any mineral residue deposit, whether by underground or open working or otherwise and includes any operation or activity incidental thereto;
21. "MPRA" means the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004); "new order right" means a tenure or other right in communal or other land which has been confirmed, converted, conferred or validated by the Minister in terms of section 18 of MPRA;
22. "old order right" means a tenure or other right in or to communal land which-
- (a) Is formal or informal;
 - (b) Is registered or unregistered;
 - (c) Derives from or is recognised by law, including customary law, practice or usage; and
 - (d) Exists immediately prior to a determination by the Minister in terms of section 18 of MPRA, but does not include-
 - (i) Any right or interest of a tenant, labour tenant, sharecropper or employee if such right or interest is purely of a contractual nature; and
 - (ii) Any right or interest based purely on temporary permission granted by the owner of lawful occupier of the land in question, on the basis that such permission may at any time be withdrawn by such owner or lawful occupier;
23. "market value" in relation to a property, in relation to a property means the value of the property determined in accordance with section 46.;
24. "multiple purpose" in relation to a property means the use of a property for more than one purpose subject section 9;

25. "municipal property" means any property owned by the Municipality;
26. "occupier" means a person in actual occupation of a property, whether or not that person has a right to occupy the property;
27. "pensioner" for purposes of the rates policy and eligibility for old age rebate, pensioner means any owner of rateable property who has reached the age of 60 years or more who receives a pension as main income during the Municipality's financial year;
28. "non- permitted use" as property category for the levying of different means any use of property that is inconsistent with or in contravention with the permitted use of that property in which event, and without condoning the non-permitted use thereof, the property shall be valued as if it were used for such non-permitted purpose only.
29. "Person" includes organ of state, a natural and a juristic entity as the case may be;
30. "Disability grantees and/or Medical boarded persons" means a person who, owing to physical or mental disability, is unfit to obtain by virtue of any service, employment or profession the means needed to enable him or her to provide for his or her maintenance (Social Assistance Act, No 6 of 2004);
31. "property" means –
- (a) immovable property registered in the name of a person, including, in the case of 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;
32. "owner" -
- (i) 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;
 - (ii) 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;
 - (iii) 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
 - (iv) 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";
 - (v) In relation to a time sharing interest contemplated in the Property Time –sharing Control Act, 1983 (Act No 75 of 1983) means the management association contemplated in the regulations made in terms of section 12 of the Property Time –sharing Control Act, 1983, and published in government Notice R 327 of 24 February 1984.
 - (vi) In relation to a share block company the share block company as defined in the Share Block Control Act, 1980 (Act 59 of 1980)
 - (vii) In relation to buildings, other immovable structures and infrastructure referred to in section 17(1)(f) means the holder of the mining right or the mining permit
33. "public service" purposes in relation to the use of a property, means property owned and used by an organ of state as-
- (a) Hospital and clinics
 - (b) Schools, pre-schools, early childhood development centres of further education and training colleges
 - (c) National and provincial libraries and archives
 - (d) Police stations
 - (e) Correctional facilities
 - (f) Courts of law

But excludes property contemplated in the definition of "Public service infrastructure"

34. "protected area" means an area that is or has to be listed in the register referred to in section 10 of the National Environmental Management: Protected Areas Act, 2003;
35. "public benefit organisation property" as a property category for the levying of different rates in accordance with the regulations on the rate- ratio between residential and non-residential properties, means property owned by public benefit organisations and used for any specified public benefit activity listed in item 1 (welfare and humanitarian), item 2 (health care), and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act, 1962, and must be registered and in possession of a Tax exemption certificate by SARS in terms of the Income Tax Act, 1962, because of activities;
36. "public service infrastructure" means publicly controlled infrastructure as defined by the MPRA;
37. "public worship" means 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 who officiated at services at that place of worship. Property used primarily as an office of a religious community or property used as parking facilities, camping sites not operated for gain and cemeteries for that religious community
38. "rate" means the cent in the Rand on the market value of a rateable property that may be levied on the ratepayer as may be determined by the Council from time to time during the Municipality's budget process;
39. "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 of the MPRA;
40. "rate ratio" means a prescribed ratio to the rate as referred to in section 19(1)(b) of the MPRA;
41. "rebate" in relation to a rate payable on a property, means a discount granted in terms of Section 15 of the MPRA, on the amount of the rate payable on the property;
42. "reduction" in relation to a rate payable on a property, means the lowering in terms of Section 15 of the MPRA, of the amount for which the property was valued and the rating of the property at that lower amount;
43. "residential property" means a dwelling which form a living unit that is exclusively used for human habitation purposes only, or a multiple number of such units on a property, including old-age homes, retirement villages and life right schemes. But for purposes of this rates policy, this definition excludes hostels, communes, boarding and lodging undertakings, places of instruction, hotels, guesthouses, and any vacant land irrespective of its zoning or intended usage;
44. "section title unit" means a section of a building together with its undivided share in the common property apportioned in accordance with the participation quota of the section;
45. "state trust land" means land owned by the state –
 - (i) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
 - (ii) over which land tenure rights were registered or granted; or
 - (iii) which is earmarked for disposal in terms of the Restitution Land Rights Act, 1994 (Act No 22 of 1994);
46. "vacant land" as a property for the levying of different rates, means any land, other than farm property and/or smallholding, where no immovable improvements have been erected, where immovable improvements according to the City's Town Planning Scheme, Land Use Rights and By-Laws, is interpreted as permanent structures on a property, that have been erected in accordance with approved plans and the issuance of a Certificate of Occupancy in terms of the City's Building Regulations".
47. "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 the MPRA 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 the notice in the Gazette where the phasing in of a rate is not justified; or
 - (c) property that is the result of sub-division or consolidation of land or new township establishment.
48. "Property register" means a register of properties referred to in section 23 of MPRA

CHAPTER 2

Categories

1. Contents of the Rates Policy

The municipality must in terms of section 3(3) of the Act, determine or provide criteria for the determination of categories of properties for the purpose of levying different rates and categories of owners of properties, or categories of properties, for the purpose of granting exemptions, rebates and reductions.

Categories of rateable property may be determined according to the

- (a) actual use of the property,
- (b) the permitted use
- (c) Combination of (a) and (b)

A municipal council may annually review, and if necessary, amend its rates policy, and any amendments to a rates policy must accompany the municipality's annual budget when it is tabled in the council in terms of section 16(2) of the Municipal Finance Management Act.

2. Categories of properties:

- a) Residential properties
- b) Business and commercial properties
- c) Educational Institutions
- d) Industrial properties
- e) Mining properties
- f) Municipal properties
- g) State-owned properties
- h) Public Service Infrastructure
- i) Agricultural Properties
- j) Non-permitted use
- k) Protected Areas
- l) Public Worship Properties
- m) Vacant land
- n) State Trust land
- o) Public benefit organisation properties

3. Exemption of owners of properties:

A municipality may in terms of the criteria as set out in its rates policy:-

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

4. Categories of owners of properties:

The City of Tshwane has determined in its rates policy, the following categories of owners of property:

- (a) Indigents;
- (b) Pensioners, Disability grantees and/or Medical boarded persons;
- (c) Owners temporarily without income;
- (d) Owners of residential properties;
- (e) Land Reform beneficiaries;
- (f) Sporting Bodies;
- (g) Public Benefit Organisations
- (h) Owners of Land Alienated by the Municipality after January 2015
- (i) Owners of Catalytic Investment Properties

CHAPTER 3

Liability for Rates

- (a) The levying of rates on property will be effected in terms of the Municipality's Rates Policy as amended from time to time.
- (b) The Municipality will, as part of each annual operating budget process, determine a rate in the rand to be levied on the market value of the property in every category of properties.
- (c) Rates will be recovered monthly.
- (d) If an amount due for rates on a property is unpaid by the owner of the property, the municipality may recover the amount from the tenant, occupier of the property or the agent of the owner.
- (e) Where the rates levied on a property are based on a supplementary valuation made in terms of section 78(1) of the Municipal Property Rates Act, 2004, such rate will be payable from the date contemplated in section 78(4) of the Municipal Property Rates Act, 2004.
- (f) Recovery of rates due will be in accordance with the Municipality's Credit Control and Debt Collection policy read together with the Credit Control and Debt Collection by-laws.

CHAPTER 4

General valuation

- (a) The municipality will undertake a general valuation of all rateable properties in its area of jurisdiction and a valuation roll be compiled with validity as prescribed by the Act;
- (b) The municipality will undertake supplementary valuations on an ongoing basis and prepare a supplementary valuation roll once during each financial year;
- (c) The municipality will in accordance with section 79 of the MPRA, make amendments regularly to the particulars on the valuation roll. Only the electronic copy of the valuation roll is updated to incorporate such amendments, except those changes to the roll in circumstances where section 78 applies, which may only be effected through a supplementary valuation in accordance with that section.

CHAPTER 5

Short Title and repeal of previous by-law

- (a) These By-Laws will be known as the City of Tshwane: Property Rates Policy By-Laws;
- (b) The City of Tshwane: Property Rates By-laws promulgated under Local Authority Notice No 1494 on 25 June 2008 is hereby repealed and substituted by these By-laws.

PROPERTY RATES POLICY

**Effective Date -1 July 2016
(As Amended)**

PREAMBLE

WHEREAS the Constitution of the Republic of South Africa, entitles municipalities to impose rates on property in their areas, subject to regulation in terms of national legislation;

AND WHEREAS the Constitution enjoins local government to be developmental in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities and in general to meet its' obligation in terms of section 152 of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS there is a need to provide local government with access to a sufficient and buoyant source of revenue necessary to fulfil its development responsibilities;

AND WHEREAS income derived from property rate 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, inadequate or inappropriate legislation and regulation;

AND WHEREAS, it is essential that municipalities exercise their power to impose rates within a statutory framework that not only enhances certainty, uniformity and simplicity across the nation, but also accounts for historical imbalances and the rates burden on the poor;

AND WHEREAS the Constitution of the Republic of South Africa confers on Parliament the power to regulate the exercise by municipalities of their fiscal powers;

Now **THEREFORE**, the Council of the City of Tshwane Municipality and all its entities adopt the **PROPERTY RATES POLICY** as set out in this document.

1. DEFINITIONS

In this policy, any word or expression to which a meaning has been assigned in the Act, bears that meaning unless the context indicates otherwise, and any expression which denotes any gender, includes the other gender or the singular only, also includes the plural and vice versa.

1.1 **“the Act”** means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) and “MPRA, 2004” shall have the same meaning;

1.2 **“Agricultural property”** in terms of the Municipal Property Rates Regulations, means property envisaged in section 8(2)(d)(i), (e), and (f)(i) of the MPRA, wherein:

- (a) Section 8(2)(d)(i) refers to farm properties used for agricultural purposes;
- (b) Section 8(2)(e) refers to farm properties not used for any purpose; and
- (c) Section 8(2)(f)(i) refers to smallholdings used for agricultural purposes;

in relation to the levying of rates, and with reference to the definition of agricultural property as contained in the Amended Municipal Property Rates Regulations on the Rate Ratios between Residential and Non-residential properties, means any farm property, or smallholding not used for any purpose; or used for *bona fide* farming and/or agricultural activity, meaning farm property, or smallholding that is used primarily for gain for purposes of the cultivation of soils; for purposes of planting and gathering of crops, forestry in the context of planting or growing of trees in a managed and structured fashion; the rearing of livestock and game, or the propagation and harvesting of fish; **and this excludes**, the use of a property for purposes of eco-tourism or for the accommodation of members of the public for gain, or any portion that is used for the accommodation of visitors for gain; the use of a property primarily for residential, other business and commercial or industrial purposes; in respect of property on which game is reared, traded or hunted; or property on which game or other animal is kept for sporting, domestic, or other recreational purposes”;

1.3 **“business and commercial”** as a property category for the levying of different rates means a property used for the activity of buying, selling or trade in commodities or services and includes any office or other accommodation on the same erf, the use of which is incidental to such business and properties registered in township Title;

1.4 **“category”**

- (i) in relation to property, means a category of properties determined in terms of section 8 of the MPRA;
- (ii) in relation to owners of properties means a category of owners determined in section 15(2);

1.5 **“Chief Financial Officer”** means the Chief Financial Officer of the Municipality

1.6 **“Constitution of the Republic of South Africa”** means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

1.7 **“Council”** means the Council of the City of Tshwane;

1.8 **“Educational institutions”** as a property category for the levying of different rates, means properties registered as such as per applicable legislation, and this includes Private or Public primary and secondary schools, Universities, Colleges and Crèche’s (regardless of whether subsidized or not), that are not registered for TAX exemption in terms of the Income Tax Act;

1.9 **“grant-in-aid”** means an additional grant awarded to persons who are in receipt of an old age grant, disability grant or war veteran’s grant, and are unable to care for themselves;

- 1.10 **“improvement”** means any building or structure on or under a property excluding-
- (i) A structure constructed solely for the purpose of rendering the property suitable for the erection of any immovable structure thereon; and
 - (ii) Buildings, structures and equipment or machinery referred to in Section 46(3) of the Act;
- 1.11 **“Income Tax Act, 1962”** means the Income Tax Act, 1962 (Act No 58 of 1962);
- 1.12 **“indigent”** as a category of owner of property for the purpose of granting exemptions, rebates and reductions, means any household that is legally resident in the RSA and resides in the City of Tshwane's juristic area, who due to a number of economic and social factors are unable to pay Municipal basic services as per the City's Indigent Policy;
- 1.13 **“Industrial”** means a branch of trade or manufacturing, production, assembling or processing of finished or practically finished products from raw materials or fabricated parts, on so large scale that capital and labour are significantly involved. This includes factories and any office or other accommodation on the same property, the use of which is incidental to the use of such factory;
- 1.14 **“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);
 - (ii) the Restitution of Land Rights Act, 1994 (Act No 22 of 1994); or
 - (b) holds the property subject to the Communal Property Association Act, 1996 (Act No 28 of 1996);
 - (c) Holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to section 26(6) and (7) of the Constitution be enacted after this Act has taken effect;
- 1.15 **“land tenure right”** means a land tenure right as defined in section 1 of upgrading the Land Tenure Rights Act, 1991 (Act No 112 of 1991);
- 1.16 **“market value”** in relation to a property, means the value of the property determined in accordance with section 46.;
- 1.17 **“mining”** means any operation or activity for the purpose of extracting any mineral on, in or under the earth, water or any mineral residue deposit, whether by underground or open working or otherwise and includes any operation or activity incidental thereto;
- 1.18 **“MPRA”** means the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004);
- 1.19 **“multiple purpose”** in relation to a property means the use of a property for more than one purpose subject to section 9;
- 1.20 **“municipal property”** means any rateable or non-rateable property owned by the City;
- 1.21 **“Municipality”** means the City of Tshwane Metropolitan Municipality established by General Notice 6770 in Provincial Gazette Extraordinary 141 of 1 October 2000 in terms of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998), and subsequent proclamations and amendments thereof and the City shall have the same meaning;
- 1.22 **“Newly rateable property”** means any rateable property on which property rates were not levied before the end of the financial year receding the date on which this Act took effect, excluding:-
- (a) a property which was incorrectly omitted from a valuation roll and that reason was not rated before that date, and
 - (b) a property identified by the Minister by the notice in the Gazette where the phasing in of a rate is not justified or
 - (c) property that is the result of sub-division or consolidation of land or new township establishment.

- 1.23 **“non-permitted use”** as a property category for the levying of different rates, means any use of property that is inconsistent with or in contravention with the permitted use of that property in which event, and without condoning the non-permitted use thereof, the property shall be valued as if it were used for such non-permitted purpose only;
- 1.24 **“occupier”** means a person in actual occupation of a property, whether or not that person has a right to occupy the property;
- 1.25 **“owner”**
- (i) 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.
 - (ii) 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.
 - (iii) 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
 - (iv) in relation to public service infrastructure referred to in paragraph (d) of the definition of
 - (v) “property” means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “Public Controlled”
- 1.26 **“pensioner”** as a category of owner of property for the purpose of granting exemptions, rebates and reductions, for purposes of the rates policy and eligibility for old age rebate, pensioner means any owner of rateable property who has reached the age of 60 years or more, who receives a State pension as the main income during the Municipality’s financial year;
- 1.27 **“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 the City’s applicable Town Planning or Land Use Scheme as amended from time to time;
 - (iii) Any legislation applicable to any specific property or properties; or
 - (b) Any alleviation of any such restriction;
- 1.28 **“Person”** includes state organ, a natural and a juristic entity as the case may be;
- 1.29 **“physically or mentally disabled”** as a category of owner of property for the purpose of granting exemptions, rebates and reductions, means a person who, owing to physical or mental disability, is unfit to obtain by virtue of any service, employment or profession the means needed to enable him or her to provide for his or her maintenance. (Social Assistance Act, No 6 of 2004);
- 1.30 **“property”** means –
- (a) immovable property registered in the name of a person, including, in the case of 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;
- 1.31 **“protected area”** as a property category for the levying of different rates, means an area that is or has to be listed in the register referred to in section 10 of the National Environmental Management: Protected Areas Act, 2003;

- 1.32 **“public benefit organisation (PBO)”** as a property category for the levying of different rates in accordance with the regulations on the rate- ratio between residential and non-residential properties, means property owned by public benefit organisations and used for any specified public benefit activity listed in item 1 (welfare and humanitarian), item 2 (health care), and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act, 1962, and must be registered and in possession of a Tax exemption certificate by SARS in terms of the Income Tax Act, 1962, because of activities;
- 1.33 **“public service infrastructure”** as a property category for the levying of different rates, means publicly controlled infrastructure as defined by the MPRA;
- 1.34 **“place of public worship”** means property used primarily for purpose of congregation, excluding a structure that is primarily used for educational instruction in which secular or religious education is the primary instructive medium: provided that the property is: residence
- (a) registered in the name of a religious community
 - (b) registered in the name of a trust established for the sole benefit of a religious community
 - (c) subject to a Land tenure right.
- 1.35 **“rate”** means the cent in the Rand on the market value of a rateable property that may be levied on the ratepayer as may be determined by the Council from time to time during the City budget process;
- 1.36 **“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 of the MPRA;
- 1.37 **“rate ratio”** means a prescribed ratio to the rate as referred to in section 19(1)(b) of the MPRA;
- 1.38 **“rebate”** in relation to a rate payable on a property, means a discount granted in terms of Section 15 of the MPRA, on the amount of the rate payable on the property;
- 1.39 **“reduction”** in relation to a rate payable on a property, means the lowering in terms of Section 15 of the MPRA, of the amount for which the property was valued and the rating of the property at that lower amount;
- 1.40 **“residential property”** as a property category for the levying of different rates, means a dwelling which form a living unit that is exclusively used for human habitation purposes only, or a multiple number of such units on a property, including old-age homes, retirement villages and life right schemes. But for purposes of this rates policy, this definition excludes hostels, communes, boarding and lodging undertakings, places of instruction, hotels, guesthouses, and any vacant land irrespective of its zoning or intended usage;
- 1.41 **“section title unit”** means a section of a building together with its undivided share in the common property apportioned in accordance with the participation quota of the section;
- 1.42 **“Special rating area”** means a special rating area approved by the Council in accordance with the provisions of section 22 of the Property Rates Act.
- 1.43 **“State-owned properties”** as a property category for the levying of different rates, means property owned and exclusively used by an organ of state, excluding farm properties used for residential or agricultural purposes or not in use and properties owned by parastatals or public entities;
- 1.44 **“state trust land”** means land owned by the state –
- (i) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
 - (ii) over which land tenure rights were registered or granted; or
 - (iii) which is earmarked for disposal in terms of the Restitution Land Rights Act, 1994 (Act No 22 of 1994);
- 1.45 **“vacant land”** as a property category for the levying of different rates, means any land, other than farm property and / or smallholding, where no immovable improvements have been erected, and whereas immovable improvements according to the City’s Town Planning Scheme, the Land Use Rights and By-Laws, means permanent structures on a property, that have been erected in accordance with approved plans by the local authority and the issuance of a Certificate of Occupancy in terms of the City’s Building Regulations”.

2. GUIDING PRINCIPLES

This Property Rates Policy is guided by the following principles:

- (a) Equity, i.e. that all categories of property and categories of owners be treated equitable in relation to each other
- (b) Affordability for the taxpayer, i.e. that the rate policy should take into account issues of affordability across categories of owners
- (c) Poverty Alleviation, i.e. that the rate policy should facilitate poverty alleviation within the context of the mechanism at its disposal
- (d) Social and Economic Development, i.e. that the rate policy should be cost efficient and should enhance the financial sustainability of the municipality
- (e) Financial sustainability, i.e. that the rate policy should utilize the mechanism at its disposal to encourage the development of property in line with the socio-economic development needs and goals of the municipality.
- (f) Cost efficiency, i.e. That the administrative cost related to rate policy is minimal taken into consideration amounts required to finance exemptions, rebates, reductions and phase –in of rates as approved by the municipality.
- (g) Community Participation, i.e. that municipality will in amending this policy commits itself to a process of community participation and will engage interested parties and structures such as ratepayers' organisations and ward committees.
- (h) Encourage development of property in the City, that the rate policy does not discourage improvements of properties within jurisdiction area of the municipality
- (i) Access to collective municipal goods and services such as but not limited to; roads, medical clinics, traffic infrastructure, fire fighting facilities, libraries, parks, recreational and sports facilities.
- (j) Access to basic and other municipal services such as but not limited to; water, sewerage, electricity, waste removal.

3. DETERMINATION OF THE CRITERIA FOR THE LEVYING OF DIFFERENT RATES

3.1 Different categories of rateable properties

3.1.1 In this rates policy, the determination of property categories of rateable property for the purpose of levying different rates, was determined according to the following criteria:

- (a) Use of the property
- (b) Permitted use of the property
- (c) A combination of (a) and (b)

3.1.2 The municipal valuer of the City will be responsible for the categorising of rateable properties in accordance with this policy and the maintenance thereof, and any change in the actual use of the property, may result in a change of categories.

3.1.3 Categories of rateable property for purposes of levying differential rates as informed by the criteria are determined as follows:

- a) Residential properties
- b) Business and commercial properties
- c) Educational Institutions
- d) Industrial properties
- e) Mining properties
- f) Municipal properties
- g) State-owned properties
- h) Public Service Infrastructure
- i) Agricultural properties
- j) Non-permitted use
- k) Protected Areas
- l) Public Worship
- m) Vacant land
- n) State Trust land
- o) Public Benefit Organisation

3.2 Levying of rates

3.2.1 Period for which rates may be levied

When levying rates, a municipality must levy the rate for a financial year, and this rate lapses at the end of the financial year for which it was levied.

- (a) The levying of rates must form part of a municipality's annual budget process; and a municipality must annually at the time of its budget process review the amount in the Rand of its current rates in line with its annual budget for the next financial year.
- (b) A rate levied for a financial year may be increased during a financial year only as provided for in Section 28(6) of the Municipal Finance Management Act.
- (c) A rate becomes payable as from the start of a financial year.

3.2.2 Amount due for Rates

The Municipality shall as part of its annual operating budget, determine a tariff (cent in the Rand) for every category of rateable property.

Rates are levied in accordance with the MPRA as an amount in the Rand on the market value of all rateable property as reflected in the valuation roll and any supplementary valuation roll.

3.2.3 Liability for Rates

- (i) A rates levied by the Municipality on a property must be paid by the owner of the property.
- (ii) Rates will be levied monthly.
- (iii) If an amount due for rates levied is unpaid by the owner of the property, the City may recover the amount from the tenant or occupier of the property.
- (iv) The amount due for rates may be recovered from the agent of the owner.
- (v) Where the rates levied on a particular property have been as a result of a supplementary valuation made in terms of Section 78(1) of the MPRA, these rates will be payable with effect from the dates as contemplated in section 78(4) of the MPRA.
- (vi) Recovery of rates due will be in accordance with the City's Collection Policy (credit and debt control).

3.2.4 Properties eligible to Rate Ratios

3.2.4.1 Agricultural Properties

The rate applicable on agricultural property as contained in the definition of farm property, and as prescribed by the Municipal Property Rates Regulations which took effect from 1 July 2009:

The ratio in relation to residential property is:

Residential property 1:1 Agricultural property 1:0.25

3.2.4.2 Public Benefit Organisation properties

The rate applicable on property registered as Public Benefit Organisation, as prescribed by the Municipal Property Rates Regulations published in Government Notice No 33016 of 12 March 2010 that took effect on 1 July 2010, may not exceed the ratio to the rate on residential properties where:

The ratio in relation to residential property is:

Residential property 1:1 Public Benefit Organisation property 1:0.25

4. EXCLUSION FROM RATES

The City will not levy rates on the following:

- (i) Public Service Infrastructure
- (ii) On those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the meaning of the Protected Areas Act, or of a national Environmental Management: Biodiversity Act, 2004, which are not developed or used for commercial, business, agricultural or residential purposes;
- (iii) On mineral rights within the meaning of paragraph (ii) of the definition of "property" in section 1 of this rates policy;
- (iv) On a property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses ten years from the date on which such beneficiary's title was registered in the office of the Registrar of Deeds;
- (v) On the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality to a category determined by the municipality for residential properties; and for properties used for multiple purposes, only on the component of the property that is used for residential purposes.
- (vi) On 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 who officiates at services at that place of worship; and
- (vii) The property exclusively used and/or occupied by the City. In an event of any change in use, ownership and/or status of any nature that may affect the exclusion of rates hereof during a financial year, the beneficiary in receipt of such exclusion from rates must notify the municipality and immediately becomes liable for any rates payable on the property, effective from the date such change may have occurred.

5. EXEMPTIONS, REDUCTIONS AND REBATES

Exemptions, Reductions and Rebates will apply to specific categories of properties and specific categories of owners of properties in the following manner:

5.1 Different categories of rateable properties

5.1.1 Residential Properties

- (i) In addition to the impermissible rate on the first R15 000 of the market value of specific categories of a property as referred to in paragraph 4(v) above, a further R60 000 reduction on the market value of a property will be applicable;
- (ii) Residential property shall include smallholdings unless the owner can provide sufficient proof to the Chief Financial Officer that he/she/it is conducting *bona fide* and sustainable farming activities on such property; provided that the keeping of animals or plants for sports and / or recreational activities shall not be deemed to be *bona fide* use for agricultural purposes; provided further any such activities that are merely incidental to the primary use of the property shall not be taken into account. In its exercising as to whether proof is provided the Chief Financial Officer shall *inter alia* take the following into account in exercising its' discretion:
 - a) Income and expenditure statements
 - b) The actual primary use of the property
 - c) Provision of an income Tax Clearance Certificate issued by the South African Receiver of Revenue in respect of such agricultural activities.

5.1.2 Multiple use properties

Properties used for multiple purposes will be granted a reduction, rebate and/or exemption applicable in accordance with the apportionment of the value in use in respect of such a property.

5.1.3 Categories of properties not eligible to exemptions, reductions or rebates

- (a) Business and Commercial property
- (b) Educational Institutions not registered as PBO's

- (c) Industrial Property
- (d) Non-permitted Use
- (e) Vacant land irrespective of zoning, except agricultural property, land alienated by the Municipality after January 2015 and catalytic investment properties.
- (f) State owned property (excluding government residential property)

5.1.4 Municipal property – Rateable

Properties in this category will be granted a reduction, rebate and/or exemption applicable only in accordance with the use of such a property.

5.2 Different categories of owners of rateable properties

The following owners of rateable property may be granted further rebates on rates as hereunder stipulated.

5.2.1 Indigent households

Indigent as defined in the Municipality's indigent policy, 100% rebate will be granted to registered indigents in terms of the Indigent Policy of the City.

5.2.2 Pensioners, Disability grantees and/or Medical boarded persons

5.2.2.1 Pensioners

Pensioners may receive a rebate as determined by the Council, subject to the following conditions:

The applicant/s must be:

- (a) Be registered owners of the property;
- (b) Must be 60 years or more of age upon application;
- (c) The property concerned must consist of one dwelling and no part thereof is sub-let, be occupied only by the applicant and his/her spouse, if any, and dependants without income;
- (d) Must submit proof of his/her age and a valid identity document;
- (e) Must submit proof of monthly income from all sources (including the income of the spouse of the owner) and collectively should not exceed an amount of R 12 500.00 as determined by Council (not exceeding R 150 000.00 per annum);
- (f) The applicant's account must be paid in full, or if not, an arrangement to pay the debt should be in place; and
- (g) The property must be categorised as "residential".
- (h) Not be in receipt of an indigent assessment rate rebate;

5.2.2.2 Disability grantees and/or Medical boarded persons;

Disability grantees and/or Medical boarded persons may receive a rebate as determined by the Council, subject to the following conditions:

- (a) Be registered owners of the property;
- (b) Provide medical proof of disability and/or certification by a medical Officer of Health;
- (c) The property concerned must consist of one dwelling and no part thereof is sub-let, be occupied only by the applicant and his/her spouse, if any, and dependants without income;
- (d) Must submit proof of his/her age and a valid identity document;
- (e) Must submit proof of monthly income from all sources (including the income of the spouse of the owner) and collectively should not exceed an amount of R 12 500.00 as determined by Council (not exceeding R 150 000.00 per annum);
- (f) The applicant's account must be paid in full, or if not, an arrangement to pay the debt should be in place; and
- (g) The property must be categorised as "residential".
- (h) Not be in receipt of an indigent assessment rate rebate;

These rebates will lapse:

- (i) On death of applicant;
- (ii) On alienation of the property;
- (iii) When applicant ceases to reside permanently on the property;
- (iv) On 30 June of each year;

The percentage rebates granted to different gross monthly household income levels will be determined according to the schedule below:

Minimum Gross Monthly Household income	Maximum Gross Monthly Household income	% Rebate
0.00	7,000.00	60
7,001.00	8,000.00	50
8,001.00	9,000.00	40
9,001.00	10,000.00	30
10,001.00	11,000.00	20
11,001.00	12,500.00	10

5.2.3 Owners temporarily without income

The Indigent criteria may be applied temporarily on an approved application in terms of the Indigent Policy of the City of Tshwane.

5.2.4 Grants-in-Aid

The Municipality may award a 100% grant-in-aid on the assessment rates of rateable properties of the classes hereunder indicated, and after the owner of such property has applied to the Chief Financial Officer in the prescribed format for such grant and the application hereof approved. Owners or such, who fail to apply for rebates for the year by 31 August, will not be entitled for that rebate for that financial year.

These rebates are not applicable to any Vacant Land irrespective of its zoning or intended usage unless stated otherwise in the policy.

Assessment to determine the ability to pay by:

- (i) Analysing the audited annual financial statements in terms of the income and overall resources;
- (ii) Examining the credibility of the year on year expenditure;
- (iii) Ensuring that profits or surpluses are calculated by excluding transfers to reserves and excessive writing off or depreciation of assets;
- (iv) Comparing the total annual turnover to the rates billed to determine whether the rates exceed 5% of the total turnover;
- (v) Accumulated reserves for specific purposes would not be taken into account with this assessment;

Note: Funds raised from external sources (such as grants, subsidies and donations) must be excluded when determining the ability to pay.

These rebates are intended to assist organisations that would be liable for the payment of the rates and that have limited resources and not for those who have the ability to pay as determined from their audited financial statements by the CFO or his/her nominee in terms of the criteria.

Should there arise dissatisfaction in respect of the evaluation result of the application, the matter may be referred to the City Manager of the Council for further review. The following classes of rateable properties are referred:

- (a) rateable property registered in the name of an institution or organisation in terms of the Non-profit Organisations Act, 1997 (Act 71 of 1997);
- (b) hospitals, clinics and institutions for mentally ill persons which are not operated with the intention to make profit;
- (c) cemeteries and crematoriums which are registered in the names of private persons and which are used exclusively for burials and cremations, as the case may be;
- (d) museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and which are open to public, whether admission is charged or not;
- (e) rateable property registered in the name of a trustee or any organisation which is being maintained for the welfare of war veterans as defined in Section 1 of the Social Aid Act (House of Assembly), 1989 (Act 37 of 1989),

- (f) sports grounds used for the purposes of amateur sport and any social activities which are connected with such sport;
- (g) rateable property registered in the name of the Boy Scouts, Girl Guides, Sea Scouts, Voortrekkers or any organization which is, in the opinion of the municipality, similar or any rateable property let by a municipality to any such organisation;
- (h) rateable property registered in the name of a declared institution as defined in Section 1 of the Cultural Institutions Act, 1969 (Act 29 of 1969), or the Cultural Institutions Act (House of Assembly), 1989 (Act 66 of 1989).

A grant-in-aid granted in this regard shall not exceed the amount which may be levied as a rate in any financial year in respect of the rateable property concerned. All reductions and rebates are subject to application and approval for such rebates or reductions as the case may be.

5.2.5 OWNERS OF LAND ALIENATED BY THE MUNICIPALITY AFTER JANUARY 2015

Defined Owners of land alienated by the Municipality will be granted rebates in terms of the Development Investment Incentives Policy of the City.

5.2.6 OWNERS OF CATALYTIC INVESTMENT PROPERTIES

Owners of Catalytic Investment Properties will be granted rebates in terms of the Development Investment Incentives Policy of the City.

6. INSPECTIONS OF AND OBJECTIONS TO THE VALUATION ROLL

- (a) Once the Council has given notice that the valuation roll is open for public inspection, any person may within the period as stated in the notice, inspect the roll and lodge an objection with the Municipal Manager against any matter reflected in, or omitted from the roll.
- (b) An objection must be in relation to a specific individual property and not against the valuation roll as such.
- (c) The lodging of an objection does not defer liability for payment of rates beyond the date determined for payment.

7. DATE OF IMPLEMENTATION

This rates policy takes effect from 1 July 2016 and will be reviewed annually.

8. DISCLAIMER

A rate cannot be challenged on the basis of non-compliance with the rates policy and must be paid in accordance with the required payment provisions. Where a ratepayer believes that the Council has failed to properly apply the provisions of the rates policy, he/she may raise the matter with the Municipal Manager of the City.

9. DELEGATION OF POWER

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

ADDENDUM

City of Tshwane Rates 2016/2017

Category	Ratio
Residential properties	1
Business and commercial properties	3.018
Educational Institutions	3.018
Industrial properties	3.018
Mining properties	3.018
Municipal properties	
State-owned properties	3.018
Public Service Infrastructure	0
Agricultural properties	0.25
Non-permitted use	7.545
Protected Areas	0
Public Worship	0
Vacant land	6.490
State Trust land	0
Public Benefit Organisation	0.25