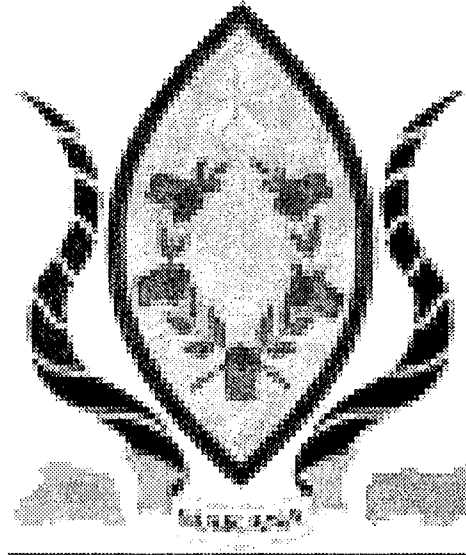


LOCAL AUTHORITY NOTICE 70



RATES BY-LAW

FOR

MAKANA MUNICIPALITY

NB: To Finance and Service Delivery Committee: 19 March 2008

Adopted by Council: 10 June 2008

PREAMBLE

In an attempt to ensure that the ratepayers residing within the Makana Municipal area of jurisdiction, are levied property rates in a fair and equitable manner, the Makana Municipality hereby approves the Property Rates By-Law, as required by section 156(2) of the Constitution of the Republic of South Africa (Act 108 of 1996), section 11(3)(m) of the Municipal Systems Act 32 of 2000.

DEFINITION OF KEY WORDS

1. In these by-laws, unless the context indicates otherwise –

“agricultural purpose”, in relation to the use of a property, excludes the use of a property for the purpose of ecotourism or for the trading in or hunting of game;

“annually” means once every financial year;

“category” –

- (a) in relation to property, means a category of property determined in terms of section 4 of these by-laws;
- (b) in relation to owners of property, means a category of owners of property determined in terms of section 5 of these by-laws;

“exemption”, in relation to the payment of a rate, means an exemption granted in terms of section 8 of these by-laws;

“land tenure right” means an old order right or a new order right as defined in section 1 of the Communal Land Rights Act, 2004 of 2004

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

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

“municipality” means the Makana Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under section 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

“owner” –

- (a) in relation to property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation, or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”,

provided that a person mentioned below may for the purposes of these By-laws be regarded by the municipality as the owner of the property in the following cases –

- (i) a trustee, in the case of a property in a trust excluding state trust land;

- (ii) an executor or administrator, in the case of property in a deceased estate;
- (iii) a trustee or liquidator, in the case of property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of property in the estate of a person under judicial management;
- (v) a curator, in the case of property in the estate of a person under curator ship;
- (vi) a usufructuary or other person in whose name a usufruct or other personal servitude is registered, in the case of property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of the municipality and is leased by it; or
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

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

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

“property” means –

- (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;

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

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

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

“public benefits organization” means an organization conducting specified public benefit activities as defined in the Act and registered in terms of the Income Tax Act, 1962 (Act No. 58 of 1962) for a tax reduction because of those activities;

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

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

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

- (a) national, provincial or other public roads on which goods, services or labour move across the municipal boundary;

- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigation aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) rights of way, easements or servitudes in connection with infrastructure mention in paragraphs (a) to (i).

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

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

“rebate”, in relation to a rate payable on property, means a discount in the amount of the rate payable on the property granted in terms of section 9 of these by-laws;

“reduction”, in relation to a rate payable on property, means the lowering of the amount for which the property was valued and the rating of the property at that lower amount granted in terms of section 10 of these by-laws;

“residential property” means property included in a valuation roll in terms of section 48(2) of the Act as residential;

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

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

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

“the Communal Land Rights Act” means the Communal Land Rights Act, 2004 (Act No. 11 of 2004);

“the Communal Property Associations Act” means the Communal Property Associations Act, 1996 (Act No. 28 of 1996);

“the Provision of Land and Assistance” means the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993);

“the Restitution of Land Rights Act” means the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

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

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

“vacant land” means land on which no immovable improvements have been erected.

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1. Rates Policy

The municipal council is expected by resolution, to adopt a policy on the levying of rates on ratable property in the municipality. The rates policy adopted by the municipal council must comply with the provisions of the Property Rates Act No. 6 of 2004. The municipality adopted the Rates Policy on the **27 November 2007**, and Rates By-Law must support this policy.

2. Principles

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

- (a) All ratepayers within a specific category, as determined by the municipal council from time-to-time, must be treated equitably.
- (b) A fair and transparent system of exemptions, rebates and reductions must be adopted and implemented by the municipality.
- (c) Relief measures in respect of the payment of rates may not be granted on an individual basis, other than by way of exemption, rebate or reduction.
- (d) Exemptions, rebates and reductions must be used to alleviate the rates burden on –
 - (i) the poor;
 - (ii) public benefit organizations; and
 - (iii) public service infrastructure.
- (e) Provision must be made for the promotion of local, social and economic development.

3. Categories of Property

For the purpose of levying different rates on different categories of property, the municipal council must –

- (a) determine different categories of property; or
- (b) provide criteria for determining different categories of property.

The different categories of property determined by the municipal council in terms of the above paragraphs; or the criteria for determining different categories of property provided by the municipal council should be specified in the rates policy adopted by the municipal council in terms of paragraph 1.

The different categories of property determined by the municipal council may include, but not limited, to those set out below –

- (a) residential properties;
- (b) industrial properties;
- (c) commercial properties;
- (d) farm properties used for agricultural purposes;
- (e) farm properties used for commercial purposes;
- (f) farm properties used for residential purposes;
- (g) farm properties used for any other purpose;
- (h) farm properties not used for any purpose;
- (i) state-owned properties:
 - (i) state properties that provide local services;
 - (ii) state properties that provide district services;
 - (iii) state properties that provide metropolitan services;
 - (iv) state properties that provide provincial services; or
 - (v) state properties that provide national services;
- (j) municipal properties;
- (k) public service infrastructure;
- (l) privately owned towns;
- (m) formal and informal settlements;
- (n) communal land as defined in the Communal Land Rights Act;
- (o) state trust land;
- (p) property acquired in terms of the Provision of Land and Assistance Act;
- (q) property acquired in terms of the Restitution of Land Rights Act;
- (r) property subject to the Communal Property Associations Act;

- (s) protected areas;
- (t) national monuments;
- (u) property used for a specified public benefit activities
- (v) multiple-use properties;
- (w) vacant land.

The criteria for determining different categories of property provided by the municipal council may include, but not limited, to those set out below –

- (a) the actual use of the property;
- (b) the permitted use of the property;
- (c) the size of the property;
- (d) the geographical area in which the property is located.

4. Categories of Owners

For the purpose of levying rates on different categories of property or for the purpose of granting exemptions, rebates or reductions, the municipal council must –

- (a) determine different categories of owners of property; or
- (b) provide criteria for determining different categories of owners of property.

The different categories of owners of property determined by the municipal council or the criteria for determining different categories of owners of property provided by the municipal council must be specified in the rates policy adopted by the municipal council in terms of paragraph 1.

The different categories of owners of property determined by the municipal council may include, but not limited, to the following categories –

- (a) indigent owners;
- (b) owners dependent on pensions or social grants for their livelihood;
- (c) owners temporarily without an income;

- (d) owners of property situated within an area affected by a disaster or any other serious adverse social or economic condition;
- (e) owners of residential property whose market value is below the amount indicated in the municipality's rates policy before the first R15 000 mandatory exclusion;
- (f) owners of agricultural property who are *bona fide* farmers.

The criteria for determining different categories of owners of property provided by the municipal council may include, but not limited, to the following criteria –

- (a) income of the owner of the property;
- (b) source of income of the owner of the property;
- (c) occupation of the owner of the property;;
- (d) market value of the property;
- (e) use of the property;
- (f) disasters or any other serious adverse social or economic condition.

5. Multiple-use Properties

The municipal council must determine the criteria in terms of which multiple-use properties must be rated. It is important that the criteria determined by the municipal council be specified in the rates policy adopted by the municipal council in terms of paragraph 1.

The criteria determined by the municipal council in terms of the previous paragraph must be either –

- (a) the permitted use of the property;
- (b) the dominant use of the property; or
- (c) the multiple-uses of the property

If the municipal council adopts the criterion set out in the above section, the rates levied on multiple-use properties must be determined –

- (a) by apportioning the market value of such a property to the different purposes for which the property is used; and
- (b) by applying the relevant cent amount in the rand to the corresponding apportioned market value.

It is imperative to ensure that when the property valuer is appointed for the purpose of conducting valuation the information regarding the multiple use of property is detailed.

6. Differential Rating

Subject to and in conformity with the Act, the municipality may levy different rates on different categories of property. If the municipality chooses to levy different rates on different categories of property, it must exercise this power in accordance with the criteria determined by the municipal council in terms of section 3(3)(b)(i) of the Act. The criteria determined by the municipal council in terms of section 3(3)(b)(i) of the Act must be specified in the rates policy adopted by the municipal council in terms of paragraph 1.

The criteria which must be determined by the municipal council in terms of section 3(3)(b)(i) of the Act may include, but are not limited, to those set out below –

- (a) the nature of the property;
- (b) the sensitivity of the property to rating;
- (c) the extent to which the property has been developed;
- (d) the promotion of social and economic development.

If the municipal council chooses to levy different rates on different categories of property, it must determine the method in terms of which different rates will be levied against different categories of property.

The method determined by the municipal council in terms of the above paragraph must be based on one of the methods set out below –

- (a) setting a different cent amount in the Rand for each category of property;
- (b) granting rebates for different categories of property; or
- (c) granting reductions for different categories of property.

The method determined by the municipal council in terms of the above paragraphs must be specified in the rates policy adopted by the municipal council in terms of paragraph 1. Differential rating must be levied in consultation with the communities affected, as the majority of them must agree with the principle.

7. Exemptions

Subject to and in conformity with the Act, the municipality may exempt –

- (a) the owners of any specific category of property; and/or
 - (b) any specific category of owners of property,
- from the payment of rates.

If the municipality chooses to exempt the owners of any specific category of property or any specific category of owners of property from the payment of rates, it must exercise this power in accordance with the criteria determined by the municipal council in terms of section 3(3)(b)(ii) of the Act. The criteria determined by the municipal council in terms of section 3(3)(b)(ii) of the Act should be specified in the rates policy adopted by the municipal council in terms of paragraph 1.

The criteria which must be determined by the municipal council in terms of section 3(3)(b)(ii) of the Act may include, but not limited, to those set out below –

- (a) age of the owner of the property;
- (b) income of the owner of the property;
- (c) source of the income of the owner of the property;

- (d) economic, physical and social condition of the property;
- (e) public service infrastructure;
- (f) property used for specified public benefit activities;
- (g) market value of the property.

8. Rebates

Subject to and in conformity with the Act, the municipality may grant a rebate –

- (a) to the owners of any specific category of property; and/or
 - (b) to any specific category of owners of property,
- on the rate payable in respect of their properties.

If the municipality chooses to grant a rebate to a specific category of property or to a specific category of owners of property from the payment of rates, it must exercise this power in accordance with the criteria determined by the municipal council in terms of section 3(3)(b)(iii) of the Act. The criteria determined by the municipal council in terms of section 3(3)(b)(iii) of the Act should be specified in the rates policy adopted by the municipal council in terms of paragraph 1 above.

The criteria which must be determined by the municipal council in terms of section 3(3)(b)(iii) of the Act may include, but not limited, to those set out below –

- (a) age of the owner of the property;
- (b) physical health of the owner of the property;
- (c) nature of the property;
- (d) ownership of the property;
- (e) market value of the property;
- (f) property used for the following specified public benefit activities:
 - (i) welfare,
 - (ii) health care, or
 - (iii) education;
- (g) extent to which municipal services are provided to the property;

- (h) extent to which the property contributes to local, social and economic development.

9. Reductions

Subject to and in conformity with the Act, the municipality may grant a reduction:

- (a) to the owners of any specific category of property; and/or
 - (b) to any specific category of owners of property,
- in the rate payable in respect of their properties.

If the municipality chooses to grant a reduction to a specific category of property or to a specific category of owners of property from the payment of rates, it must exercise this power in accordance with the criteria determined by the municipal council in terms of section 3(3)(b)(iii) of the Act. The criteria determined by the municipal council in terms of section 3(3)(b)(iii) of the Act must be specified in the rates policy adopted by the municipal council in terms of paragraph 1 above.

(4) The criteria which must be determined by the municipal council in terms of section 3(3)(b)(iii) of the Act may include, but not limited, to those set out below –

- (a) fire;
- (b) floods;
- (c) lightning;
- (d) storms;
- (e) other artificial or natural disasters.

10. Property used for agricultural purposes

When considering the criteria to be applied in respect of any exemptions, rebates or reductions on properties used for agricultural purposes, the criteria listed below must be taken into account –

- (a) the extent of services provided by the municipality in respect of such properties;
- (b) the contribution of agriculture to the local economy;
- (c) the extent to which agriculture assists in meeting the service delivery and development obligations of the municipality; and
- (d) the contribution of agriculture to the social and economic welfare of farm workers.

11. Process for granting exemptions, rebates and reductions

Applications for exemptions, rebates and reductions must be made in accordance with the procedures determined by the municipal council. The procedures determined by the municipal council should be specified in the rates policy adopted by the municipal council. As Ward Councillors and Ward Committee members are in daily contact with the communities, it is advisable for them to be vigilant and bring forth cases of this nature, even the "child headed households" to the Office of the Chief Financial Officer or the Municipal Manager, so that they can be attended to speedily.

The municipality retains the right to refuse an application for an exemption, rebate or reduction if the details supplied in support of such an application are incomplete, incorrect or false.

12. Rates increases

Subject to and in conformity with the Act, the municipality may increase the rates it levies on property in the municipality. If the municipality chooses to increase the rates it levies on properties in the municipality, it must exercise this power in accordance with the criteria determined by the municipal council in terms of section 3(3)(b)(iv) of the Act.

The criteria determined by the municipal council in terms of section 3(3)(b)(iv) of the Act must be specified in the rates policy adopted by the municipal council in terms of paragraph 1.

The criteria which must be determined by the municipal council in terms of section 3(3)(b)(iv) of the Act may include, but are not limited, to those set out below –

- (a) priorities of the municipality reflected in its Integrated Development Plan;
- (b) the revenue needs of the municipality;
- (c) the need for the management of rates shocks;
- (d) affordability of rates to ratepayers.

13. Short title and reviewal of Rates BY-Law

These by-laws will be called the Makana Municipality Rates By-Laws, and must be read in conjunction with the municipality's Rates Policy. The Rates By Laws and the Rates Policy will be reviewed on an annual basis, preferably during the budget process, or on or whenever it is necessary to do so.

14. Commencement

These by-laws come into force and effect on 1 July 2008, and any issue that is not addressed on these By-Laws will be dealt with according to the Rates Policy, Municipal Property Rates No. 6 of 2004, and any Government Regulations issued about Property Rates.
