



MBOMBELA LOCAL MUNICIPALITY

PROPERTY RATES BY-LAW

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MBOMBELA PROPERTY RATES BY-LAW

The Mbombela Local Municipality, In terms of section 6 of the Local Government: Municipal Property Rates Act 6 of 2004, has by way of Council resolution – (May 2016) adopted the Municipality's Property Rates By law set out hereunder.

PREAMBLE

WHEREAS section 229 of the Constitution (Act 108 Of 1996) that a municipality may impose rates on property and surcharges on fees for the services provided by or on behalf of the municipality.

AND WHEREAS section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), read with section 162 of the Constitution require a municipality to promulgate municipal by – laws by publishing them in the gazette of the relevant province.

AND WHEREAS section 6 (1) of the Local Government Municipal Property Rates Act, 2004 as amended, requires a municipality to adopt by laws to give effect to the implementation of its property rates policy;

AND WHEREAS section 6 (2) of the Local Government Municipal Property Rates Act, 2004 as amended, provides that by-laws adopted in terms of 6(1) may differentiate between the different categories of properties and different categories of owners of properties liable for the payments of rates.

PART ONE: DEFINITIONS

Any words and phrases in this by-law shall have the same meaning and interpretation as assigned in terms of the said Municipal Property Rates Act and for this purpose lists hereunder the definitions used in the Act to be mutatis mutandis applied in this by-law:

Unless the context indicates otherwise:

Act	Means the Local Government: Municipal Property Rates Act (Act 6 of 2004).
Child Headed Household	Means a household recognized as such in terms of section 137 of the Children's Amendment Act, 41 of 2007.
Actual Use	Means actual activities that are taking place on the property.
Agent	In relation to the owner of a property, means a person appointed by the owner of the property: (a) to receive rental or other payments in respect of the property on behalf of the owner; or (b) To make payments in respect of the property on behalf of the owner.

Agricultural purposes	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 properties determined in terms of Section 8 of the Act; and (b) In relation to owners of properties, means a category of owners determined in terms of Section 15(2) of the Act;
Community services	Means any services which the expenditure of rendering of such a service is financed from the revenue generated from property rates;
Council	Means the Council of the Mbombela Local Municipality;
Date of valuation	Means the date determined by the Municipality in terms section 31(1);
Disabled people	Means a person who qualifies to receive relief in terms of the Social Services Act. 1992 (Act No. 59 of 1992) or has been certified as disabled by a medical practitioner;
Disaster	Means a disaster within the meaning of the Disaster Management Act (57 of 2002); or any other serious adverse social or economic condition.
Effective date	(a) In relation to a valuation roll, means the date on which the valuation roll takes effect in terms of Section 32(1) of the Act; or (b) In relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of Section 78(2) (b) of the Act.
Exclusion	In relation to a municipality's rating power, means a restriction of that power as provided for in Section 17 of the Act.

Exemption	In relation to the payment of a rate, means an exemption granted by a municipality in terms of Section 15 of the Act.
Financial year	Means the period starting from 1 July in each year to 30 June the following year.
Income Tax Act	Means the Income Tax Act, 1962 (Act No. 58 of 1962)
Indigent household	Means an owner of property who is in permanent occupation of the property and qualifies for indigent relief in terms of the municipality's indigent policy, shall include state pensioner, child-headed household, disabled people, household without income or with income that falls within a certain threshold and medical boarded people;
Illegal use	Where any person uses land or buildings or causes it to be used in conflict with the provisions of the town planning scheme in operation.
Land reform beneficiary	In relation to a property, means a person who: <ul style="list-style-type: none"> (a) acquired the property through: <ul style="list-style-type: none"> (i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or (ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1944); (b) holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or (c) holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to Section 25(6) and (7) of the Constitution be enacted after this Act has taken effect.
Land Tenure right	Means an old order right or a new order right as defined in Section 1 of the Communal Land Rights Act, 2004.
Local community	In relation to a municipality: <ul style="list-style-type: none"> (a) means that body of persons comprising: <ul style="list-style-type: none"> (i) the residents of the municipality;

- (ii) the ratepayers of the municipality;
 - (iii) any civic organisations and nongovernmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
 - (iv) visitors and other people residing outside the municipality who, because of their presence in the municipality , make use of services or facilities provided by the municipality; and
- (b) Includes, more specifically, the poor and other disadvantaged sections of such body of persons.

Local Municipality

Means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in Section 155(1) of the Constitution as a category B municipality. Establish in terms of section 12 of the Municipal Structures Act No. 117 of 1998.

Market Value

In relation to a property, means the value of the property determined in accordance with Section 46 of the Act;

Municipal Finance Management Act

Means the Local Government: Municipal Finance Management Act No. 56 of 2003;

Municipal Manager

Means a person appointed in terms of Section 82 of the Municipal Structures Act;

Newly rateable property

Means any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding:

- (a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and
- (b) A property identified by the Minister by notice in the Gazette where the phasing in of a rate is not justified.

Non-profit organization

Means any organization which is registered in terms of the Non- profit Organizations Act.

Occupier	In relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property;
Organ of State	Means an organ of state as defined in Section 239 of the Constitution.
Owner	<p>(a) In relation to a property referred to in paragraph (a) of the definition of property, means a person in whose name ownership of the property is registered in a register;</p> <p>(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;</p> <p>(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</p> <p>(d) In relation to public service infrastructure referred to in paragraph (d) of the definition of property, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:</p> <ul style="list-style-type: none"> (i) A trustee, in the case of a property in a trust excluding state trust land; (ii) An executor or administrator, in the case of a property in a deceased estate; (iii) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation; (iv) A Judicial manager, in the case of a property in the estate of a person under judicial management:

- (v) A curator, in the case of a property in the estate of a person under curatorship;
- (vi) A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitudes; or
- (vii) 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;
- (viii) A lessee in the case of property that is registered in the name of the municipality and is leased by it.

Permitted use

In relation to a property, means the limited purposes for which the property may be used in

terms of:

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

Person

Means natural and legal person including an organ of state.

Prescribe

Means prescribe by regulation in terms of section 83 of the Act

Privately owned township

Means single properties, situated in an area not ordinary being serviced by the municipality, divided through sub – divisions or township establishment units (ten or more) full title stands and/ or sectional units and where all services inclusive of water, electricity, sewerage and refuse removal and roads development are installed at the full cost of the developer and maintained and rendered by the residents of

such estate or township.

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 Protected Areas Act.

Protected Areas Act

Means the National Environmental Management: Protected Areas Act, 2003

Publicly controlled

Means owned by or otherwise under the control of an organ of state, including:

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

Public Benefit Organization Property

Means property owned by public benefit organizations 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

Public Service Infrastructure

Means publicly controlled infrastructure of the following kinds:

- a) National, provincial or other public roads on which goods , services or labour move across a municipal boundary;
- b) Water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- 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 communication system serving the public;
- g) Runways or apron 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 navigational 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 mentioned in paragraphs (a) and (i)

Rate or rates

Means a municipal rate on property envisaged in section 229 (1) (a) of the Constitution;

Rates Policy

Rates Policy” means the Mbombela Municipal Property Rates Policy adopted in terms of section 3 of the Act;

Rateable property	Means a 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 Act.
Rebate	In relation to a rate payable on a property, means a discount granted in terms of Section 15 of the Act on the amount of the rate payable on the property.
Reduction	In relation to a rate payable on a property, means the lowering in terms of section 15 of the Act of the amount for which the property was valued and the rating of that property at the lower amount.
Register	<p>a) means to record in a register in terms of –</p> <ul style="list-style-type: none"> (i) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or (ii) the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and <p>b) Includes any other formal act in terms of any other legislation to record :</p> <ul style="list-style-type: none"> (i) a right to use land for or in connection with mining purposes; or (ii) a land tenure right;
Residential property	Means a property included in a valuation roll in terms of Section 48 (2) (b) of the Act as residential.
Sectional Titles Act	The Sectional Titles Act, 1986 (Act No. 95 of 1986)
Sectional Title Scheme	A scheme defined in Section 1 of the Sectional Titles Act;
Smallholding	Means a property recorded in the Deeds Registry Database as being an Erf and zoned for Agricultural usage in terms of an adopted Town Planning Scheme.
Sectional title unit	A unit defined in Section 1 of the Sectional Titles Act;
Small, very small and micro	Means businesses as per the criteria set by the National

business	Small Business Act No. 102 of 1996 schedule;
Special rating area	Means a geographic area 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 rate in a rand of the property owners within the precinct;
Specified public benefit activity	An activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act.
State Trust Land	Means land owned by the state: <ul style="list-style-type: none"> a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure; b) over which land tenure rights were registered or granted; or c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994)
The Municipality	Means the Mbombela Local Municipality;

PART TWO: OBJECTS OF THE BY-LAW

2.1 The object of this by-law is to give effect to the implementation of the Rates Policy as contemplated in section 6 of the Act.

PART THREE: FUNDAMENTAL PRINCIPLES OF THIS BY-LAW

THE PRINCIPLES OF THE BY-LAW ARE TO ENSURE THAT:

The power of the municipality to impose rates on property within its area will not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities or the national mobility of goods, services, capital or labour as prescribed in terms of Section 229 of the Constitution of the Republic of South Africa;

3.1 All ratepayers, in a specific category, as determined by council from time to time, will be treated equitably;

3.2 Property rates will be assessed on the market value of all rateable properties in the jurisdiction of the municipality and for the purpose of generating revenue to balance the budget after taking into account:

- 3.2.1 Profits generated on trading and economic services; and
- 3.2.2 The amounts required to finance exemptions, rebates and reductions of rates as approved by the municipal council from time to time;
- 3.3 Property rates will not be used to subsidize trading and economic services.
- 3.4 The rates income generated by the municipality will take into account relief measures to address the social and economic needs of the community;
- 3.5 This By-Law and amendment thereof will be developed in consultation with the community and in compliance with a process of community participation in terms of Chapter 4 of the Municipal Systems Act.

PART FOUR: ADOPTION AND IMPLEMENTATION OF RATES POLICY

- 4.1 The Council of the municipality shall adopt by majority vote and implement a rates policy consistent with the Act on the levying of rates on rateable property within the jurisdiction of the municipality;
- 4.2 The municipality shall not be entitled to levy rates other than in terms of its rates policy.

PART FIVE: CONTENTS OF THE RATES POLICY

The rates policy shall, inter alia:

- 5.1 Apply to all rates levied by the Municipality pursuant to the adoption of its Annual Budget;
- 5.2 Comply with the requirements for:
 - 5.2.1 the adoption and contents of a rates policy specified in section 3 of the Act;
 - 5.2.2 the process of community participation specified in section 4 of the Act; and
 - 5.2.3 the annual review of a rates policy specified section 5 of the Act.
- 5.3 Provide for principles, criteria and implementation measures that are consistent with the Municipal Property Rates Act for the levying of rates which the Council may adopt; and
- 5.4 Provide for enforcement mechanisms that are consistent with the Municipal Property Rates Act and the Local Government: Municipal System Act, 2000 (Act no. 32 of 2000) as amended.

PART SIX: CATEGORIES OF PROPERTIES AS DETERMINED IN TERMS OF SECTION 8 OF THE ACT AND AS IN THE RATES POLICY FOR DIFFERENTIAL RATING PURPOSES

- 6.1 For the purposes of differential rates, the following categories of rateable property have been determined, being:

6.1.1 Residential Property

Means improved property that:

- (a) Is used for residential purposes including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes;
- (b) Is a unit registered in terms of the Sectional Title Act and used for residential purposes.

For the purpose of the rates policy, the following are excluded as residential purposes

Hotels
Guesthouses and Lodges
Time share units used for holiday purposes

6.1.2 Business Property

Means property that is used for business, commercial and industrial purposes.

6.1.3 Agricultural Property

Means a property used for bona fide agricultural purposes in which the property owner deriving his principal source of income from the produce of the land on such property. Agricultural/farming property not used for bona fide agricultural/farming purposes shall be rated according to the actual use thereof.

6.1.4 State or Government Property

Means property owned and used by the state excluding the kinds of publicly controlled infrastructure listed in the definition of Public Service Infrastructure.

6.1.5 Public Service Infrastructure

Means a property as defined by the Act.

6.1.6 Public Benefit Organization Property

Means property owned by public benefit organizations 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

6.1.7 Rural Communal Land

Means the residual portion of a rural communal land excluding identifiable and rateable entities within the property and excluding State Trust Land and land reform beneficiaries as defined in the Act.

6.1.8 State Trust Land

Means land owned by the state:

- (a) in trust for persons communally inhabiting the land in terms of a traditional system of a land tenure;
- (b) over which land tenure rights were registered or granted; and
- (c) which is earmarked for disposal in terms of the Restitution of Land Rights.

6.1.9 Municipal property

In relation to property shall mean those properties owned & exclusively used by the municipality;

6.1.10 Places of Public Worship

means a property registered in the name of and used primarily as a place of 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 the services at that place of worship;

6.1.11 Protected area

Means an area that is, or has to be, listed in the register referred to in Section 10 of the Protected Areas Act.

6.1.12 other property

Means any property determined by the Municipality which is not associated with any of the categories of property listed above.

6.2 The basis of categorization of properties for rating purposes does not permit any illegal usage of such properties.

PART SEVEN: RELIEF MEASURES FOR PROPERTY OWNERS AS PROVIDED FOR IN THE PROPERTY RATES

- 7.1 The municipality will not grant reliefs in respect of the payment of rates other than by way of an exemption, rebate or reduction provided for in the property rate policy and are granted in terms of section 15 of the Act to:
 - 7.1.1 A specified category of properties; or
 - 7.1.2 A specified category of owners of property as provided for hereunder.
- 7.2 The municipality will not grant relief to the owners of property:
 - 7.2.1 On an individual basis.
 - 7.2.2 If the account is in arrears on the date of application.

PART EIGHT: MULTIPLE PURPOSE PROPERTIES

- 8.1 The municipality shall determine a method of assessing the value of multi-purpose properties applying the following;
 - 8.1.1 The valuation for all other multiple-purpose properties will be assessed according to the actual uses of the property according to value.
- 8.2 With regard to the Rural Communal property;
 - 8.2.1 It shall be considered as a multiple use property as a whole;
 - 8.2.2 That identifiable and rateable entities within the property (such as commercial leases and commercial and institutional in possession of permission to occupy) be identified, valued and rated individually, with the proviso that the municipality may extend this annually to include other identifiable entities as the data set is developed; and
 - 8.2.3 That the residual portion of the land be considered as the 'Residual' portion of the land for valuation, rating and rebate purposes and be exempted from the payment of rates as determined in the rates policy.

PART NINE: COMMUNITY PARTICIPATION

- 9.1 The municipality has conducted public participation and consultation processes in accordance with Chapter 4 of the Municipal Systems Act No. 32 of 2000 and Chapter 2 of this Act.

PART TEN: RECOVERY AND PAYMENT OF RATES

- 10.1 An owner of a rateable property shall be liable for a property rates account;
- 10.2 Property rates shall be recovered on a monthly basis over a twelve months period in

- equal installments;
- 10.3 Owners of rateable properties liable for the payment of property rates account shall be furnished with a written municipal account on a monthly basis;
- 10.4 If a person has not received a written account, that person must take the necessary inquiries from the municipality.
- 10.5 Payment of property rates with a single amount on or before 31 December of each year, shall be allowed on condition that;
- 12.4.1 The owner applies to the municipality in writing on a prescribed form for such deferment of the payment of the property rates account;
- 12.4.2 The owner has more than ten (10) property rates accounts with the municipality;
- 12.2.3 The application reaches the municipality before 30 June of each year; and
- 10.6 Interest on overdue property rates accounts shall not be levied until 31 December of each year in case of payment of property rates with a single amount for twelve months;
- 10.7 Rates in arrears shall be recovered from tenants and occupants of a property if the owner fails to pay the property rates account.
- 10.8 The Credit Control and Debt Collection By-Law shall apply in cases where the property rates accounts are in arrears.
- 10.9 The consolidation of property rates and services charge in one account and any appropriation of payments received shall be done by the municipality on a discretionary basis in accordance with the Credit Control and Debt Collection By-Law.
- 10.10 Interest on property rates in arrears shall be calculated and charged at prime rate which shall be applicable at 30 June plus one percent fixed over the twelve months period of the financial year.

PART ELEVEN SPECIAL RATING AREA

11. The establishment of or applications for establishment of special rating area(s) in terms of its City Improvement Districts By-Law shall be considered by the municipality.

PART TWELVE: REVIEW OF THIS BY-LAW

12. The By-Law shall be reviewed on an annual basis to ensure that it complies with the Municipality's strategic objectives and with legislation.

PART THIRTEEN: SHORT TITLE

13. This By-Law shall be known as Mbombela Property Rates By-Law.

PART FOURTEEN: IMPLEMENTATION OF THIS BY-LAW

14. This By-Law is the Rates By-law and shall be effective from 1 July 2016.