



Policy Name	Property Rates Policy
Policy Number	14
Policy Review Team	Legal & Compliance Unit Electricity unit Water & Sanitation Unit Revenue Management Unit Real Estate Unit Economic Development Unit
Status	Approved for Public Participation
Approved By	Full Council
Date Approved	15 December 2021
Review	Annually



DRAFT PROPERTY RATES POLICY

2022 / 2023

CONTENTS

Preamble

Purpose

Definitions

Problem Statement

Policy

1. Institutional requirements
2. Liability for rates
3. Amount due for rates
4. Method and frequency of payment of rates
5. Categories of property
6. Categories of owners of property
7. Exemptions, Rebates and Reductions (Relief)
 - 7.1 Residential Property
 - 7.2 Senior Citizens
 - 7.3 Disability grantees/medically boarded persons
 - 7.4 Child Headed Households
 - 7.5 Public Benefit Organisations
 - 7.6 Life Rights Schemes and Retirement Complexes
 - 7.7 Commercial Accommodation
 - 7.8 Schools not for gain
 - 7.9 Sporting Bodies
 - 7.10 Municipal Properties
 - 7.11 Disasters
 - 7.12 Vacant Land
 - 7.13 Consulates

- 7.14 Other Impermissible Rates
- 7.15 Green Star Certified Building
- 8. Agricultural property
- 9. Special Rating Areas in Terms of Section 22 of the Act
- 10. Properties used for Multiple Purposes
- 11. Unauthorised or Illegal Development or Use, and Abandoned Property or Building
- 12. Rural Residential Property and Rateable Rural Property
- 13. Sectional Title Properties
- 14. Economic Development
- 15. Multiple entries in the valuation roll
- 16. Payment and Recovery of Rates
- 17. Deferment of Rates
- 18. Supplementary valuations
- 19. General
- 20. Policy Evaluation and Review

ANNEXURE A

PREAMBLE

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

In terms of Section 3 (1) of the Local Government: Municipal Property Rates Act, No. 6 of 2004 and Section 62(1)(f) of the Local Government: Municipal Finance Management Act, No. 56 of 2003, a Municipality should adopt and implement a policy on the levying of rates on rateable property.

This document sets out the rates policy of the eThekweni Municipality and must be read in conjunction with the eThekweni Municipality: Property Rates Bylaw 201 5, as amended, and the Act.

PURPOSE

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

DEFINITIONS AND ACRONYMS

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

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

"Additional Rate" means an additional rate contemplated in Sections 19(1)(d) and 22(1)(b) of the Act read together with clause 9, and is payable and collected in the same manner as other property rates imposed by the Municipality;

"Audited Financial Statements" mean, for the purposes of clause 7.5 and 7.8: An annual report issued by an independent registered auditor or a person certified by a registered body or a certified bookkeeper expressing an opinion on financial statements. This includes a statement of financial position; a statement of financial performance; a cash-flow statement; other statements that may be prescribed; and any notes to these statements;

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

"Bed & Breakfast" means a short term accommodation establishment operated from a dwelling house-

- (a) where the registered owner of the property lets, or allows to be used, for commercial purposes and for such owner's personal reward and not that of an independent third party operation or letting agent, a maximum of 10 bedrooms of the dwelling house on the property, for the purposes of temporary accommodation of transient guests or visitors, with a permanent home elsewhere;

(b) in terms of a valid planning authorisation or consent issued by the Municipality or other competent authority in terms of applicable planning legislation; and

(c) where the primary use of the property and dwelling house remains residential (but excludes student accommodation and a hotel);

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

"Brownfield" means a Brownfield development as contemplated in terms of the Economic Development Incentive Policy of the Municipality;

"Business and Commercial property" means, unless a definition in the Act or a provision in this Policy, indicates otherwise-

- a) Property used for the activity of buying, selling or trading in commodities or services and includes any office or ancillary uses related thereto, but excludes a warehouse use and storage for industrial purposes;
- b) Property on which the administration of the business of private or public entities or any organ of state takes place;
- c) Property used for the provision of commercial accommodation;
- d) Property used for education purposes excluding property contemplated in paragraph (b) of the definition of 'public service purposes' in the Act;
- e) Property used by an organ of state other than for purposes contemplated in paragraph (b) hereof; or
- f) Property used for any purpose not mentioned in, or excluded from any other category of property but does not include a property used for warehousing or storage for industrial purposes;

"Business Plan" means, for the purposes of the Finance Agreement, the business plan contemplated in the Special Rating Areas Policy, together with all its annexures, as updated from time to time for each successive financial year in respect of which the Finance Agreement remains in force, and which shall include:

- a) A motivation report for the establishment of a SRA/ continued funding, as applicable;
- b) Additional Services Implementation Plan;
- c) Annual budget;

- d) Term budget; and
- e) Confirmation of alignment with the Municipality's IDP;

"By-law" means eThekweni Municipality: Property Rates By-law 2015, as amended;

"CFO" means Chief Financial Officer of the Municipality as defined in the MFMA or his/her delegate in terms of Section 59 of the Local Government Municipal Systems Act, No.32 of 2000;

"Commercial Accommodation" means lodging, or board and lodging, in any house, flat, apartment, room, hotel, motel, inn, bed & breakfast, backpacker lodge, boarding house, residential holiday resort establishment, time share, holiday accommodation, student accommodation, unit, chalet, tent, caravan, camping site or similar establishment which is regularly or systematically supplied but excludes a Primary property;

"Community Tourism Organisation" (CTO) means an independent local organisation registered with the Municipality's Durban Tourism Department and the KwaZulu-Natal Economic Development, Tourism and Environmental Affairs Department, responsible for the promotion of tourism establishments and tourism operators within a local area;

"Companies Act" means the Companies Act, No.71 of 2008, as amended;

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

"Disaster Management Act" means the Disaster Management Act, No.57 of 2002, as amended;

"Dwelling House" means a building on a property, as contemplated in the Land Use Scheme, comprising of self-contained interleading rooms, including not more than one kitchen, used or adapted to be used for occupation by a single household or family, for residential purposes;

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

"Finance Agreement" means an agreement, in the prescribed form, entered into between the Municipality and the SRA Management Company in terms of Section 67 of the MFMA;

"Green building" means a building that results in lower carbon emissions than required by the National Building Regulations;

"Green Certified Building" means a building that has been validly accredited with either a Green Star, EDGE, Net-Zero or Net-Positive certification by the Green Building Council of South Africa;

"Heritage Act" means the KwaZulu-Natal Heritage Act, No.4 of 2008, as amended;

"Holiday Accommodation" means in relation to this Policy, a residential property (other than a hotel) that is privately owned and which is used or rented out periodically (either in its entirety or portions thereof), for a period up to 60 days at a time, per transient guest with a permanent place of residence elsewhere, for commercial purposes. The supply of such holiday accommodation includes the supply of furniture and fittings as part of the right of occupation in an all-inclusive fee;

"Hotel" means a facility offering transient lodging accommodation to the general public and providing such additional services such as restaurants, meeting rooms, entertainment and recreational facilities or as may be permitted by the Land Use Scheme but excludes a dwelling house;

"Hospice" means, for the purpose of clause 7.5, a facility registered with the Department of Social Development, that provides hospice care to people in the final phase of a terminal illness, with focus on comfort and quality of life, rather than cure;

"IDP" means Integrated Development Plan contemplated in Section 25 of the Systems Act;

"Income Tax Act" means the Income Tax Act, No.58 of 1962, as amended;

"Industrial Property" means:

- (a) In relation to any property, an industrial use, for the manufacture, production, assembly or processing of finished or partially finished products from raw material or from fabricated, rebuilt or scrap parts, and includes yards or buildings for the storage of goods and material associated therewith, but shall exclude storage areas for the display and sale of goods;
- (b) In relation to any property, any use associated with an industry or trade that by reason of fumes, gases, vapours, dust, smell, noise, vibration, or other causes, is classified as an 'industry-noxious' use, in the Land Use Scheme; and
- (c) A property used for the purposes of a warehouse or storage for industrial purposes as contemplated in the Land Use Scheme, but excludes any property used for retail purposes;

"Juristic Person" includes a partnership, association or other body of persons, corporate or unincorporated and includes a trust and organ of state;

"Land Use Scheme" means the Land Use Scheme adopted by the Municipality Council in accordance with or contemplated in, the eThekweni Municipality: Planning and Land Use Management By-law, 2016;

"Life Rights Scheme" means a housing development scheme, with rights of occupation, as contemplated in the Housing Development Schemes for Retired Person's Act, No.65 of 1988;

"MFMA" means Local Government: Municipal Finance Management Act, No.56 of 2003, as amended;

"Mining Property" means a property used for mining operations as defined by the Mineral and Petroleum Resources Development Act, No.28 of 2002, as amended;

"Minor" means a natural person under the age of 18 years;

'MPRRR' means the Municipal Property Rates Regulations on Rate Ratio between the Residential and Non-Residential Category of Property, published under Notice RI 95 dated 12 March 2010;

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

"Municipal Financial Year" means the year starting 1 July each year;

"Municipal Valuer" means a person designated as a Municipal Valuer in terms of Section 33(1) of the Act;

"National Building Regulations" mean the National Building Regulations and Building Standards Act, No. 103 of 1977, as amended; and regulations promulgated thereunder;

"Non-Profit Retirement Villages" shall bear the same meaning as 'housing development scheme' defined in the Housing Development Schemes for Retired Person's Act, No.65 of 1988 read together with Section 30 of the Income Tax Act, No. 58 of 1962;

"Old Age Home" means for the purposes of this Policy, a residential facility of the nature contemplated in the Older Persons Act, No. 13 of 2006, as amended, for persons who have attained the age of 60 years or older;

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

"Owner" means in addition to the persons defined in the Act, includes—

- a) in relation to a property referred to in paragraph (a) of the definition of "property" in the Act, means a person in whose name ownership of the property is registered;
- b) The administrator of the body corporate of the sectional title scheme in the case of common property in a sectional title scheme where there are no elected trustees of the body corporate;
- c) The administrator, where the owner of the building is a mental health care user as defined in section 1 of the Mental Health Act, No. 17 of 2002;
- d) The business rescue practitioner, where the owner of the property has been placed under business rescue;
- e) The managing agent, where the owner of the building is absent from the Republic of South Africa or where the Municipality has, after reasonable attempts, not been able to determine his or her whereabouts;
- f) Every person who is entitled to occupy or use a building, or who does occupy or use a building, where —
 - i. The owner of the building is absent from the Republic of South Africa;

- ii. The Municipality has, after reasonable attempts, not been able to determine the whereabouts of the owner of the building; and
 - iii. There is no managing agent;
- g) Trustees and beneficiaries jointly, in the case of property in a trust;
 - h) An executor or administrator, in the case of property in a deceased estate;
 - i) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation,
 - j) A judicial manager, in the case of a property in the estate of a person under judicial management;
 - k) A curator, in the case of a property in the estate of a person under curatorship;
 - l) A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude, as joint owner together with the registered owner;
 - m) A lessee, in the case of a property that is registered in the name of the Municipality and is leased by it;
 - o) A buyer or a developer, in the case of a property that was sold by the Municipality and in respect of which possession has been given pending registration of ownership in the name of the buyer, beneficiary, or a developer;
 - p) A fideicommissary as joint owner together with the fiduciary;
 - q) The Ingonyama Trust, in respect of the land vested in The Ingonyama Trust by virtue of The Ingonyama Trust Act of 1994;
 - r) The National Government of the Republic of South Africa, in the case of a property that is registered in the name of a deregistered company or close corporation and where ownership thereof has accrued to the state by operation of law (bona vacantia); or
 - s) An owner of the property in the name of any juristic person not mentioned in this definition of an owner;

"Person" means a natural person or Juristic Person;

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

"Primary Property" means the primary residential property where a person has his or her permanent principal home to which he or she returns or intends to return and where he or she resides for at least nine (9) months in the Municipal Financial Year;

"Property timesharing scheme" or "timeshare" means a scheme regulated by the Property Time-Sharing Control Act No.75 of 1983, as amended;

"Public Benefit Organisation" (PBO) means a public benefit organisation as defined in Section 30(1) of the Income Tax Act, No.58 of 1962, as amended;

"Public Benefit Organisation property" means property owned by public benefit organisations and used for any specified public benefit activity listed in item 1 (welfare and humanitarian), item 2 (healthcare) and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act, No.8 of 1962, as amended, and to which the MPRRR applies;

"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 and 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 systems serving the public;
- (g) runways, aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding those, which must be vacant for air navigation purposes;

- (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, 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) a right registered against immovable property in connection with infrastructure mentioned in paragraphs (a) to (i);

"Public School" means a public school contemplated in Chapter 3 of the South African Schools Act, No.84 of 1996, as amended;

"Public Service Purposes", in relation to the use of a property, means property owned and used by an organ of state as-

- (a) hospitals or clinics;
- (b) schools, pre-schools, early childhood development centres or further education and training colleges;
- (c) national and provincial libraries and archives;
- (d) police stations;
- (e) correctional facilities; or
- (f) courts of law, but excludes property contemplated in the definition of 'public service infrastructure';

"Rates Randage" means the cents in the rand set as a tariff for each category of rates levied by the Municipality;

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

"Retail" means the sale of goods to the public in relatively small quantities for use or consumption, rather than for wholesale trade;

"SRA Management Company" means a non-profit company with whom the

Municipality concludes a Finance Agreement, as envisaged in clause 9 of this Policy read with the Special Rating Areas Policy;

"SARS" means the South African Revenue Service;

"School Not for Gain" means for the purposes of Clause 7.8, a school registered and operating in terms of the South African Schools Act, No.84 of 1996, as amended, and in respect of which a tax exemption letter of approval has been issued by the South African Revenue Services as contemplated in Part 1 of the Ninth Schedule of the Income tax Act, No.58 of 1962;

"Sectional title scheme" means a sectional title scheme regulated by the Sectional Titles Act, No.85 of 1986, as amended, read with the Sectional Titles Scheme Management Act, No.8 of 2011, as amended;

"Senior Citizen" means a natural person who is sixty (60) years or older;

"Share block scheme" means a share block scheme regulated by the Share Blocks Control Act, No.59 of 1980, as amended;

"Special Rating Area" (SRA) subject to Section 22 of the Act, means a geographic area, approved by Council, within which property owners agree to pay for certain services supplementary to those supplied by the Municipality. These services are financed by levying an Additional Rate, which is added to the rates bill of the property owners within the geographical area;

"Special Rating Areas Policy" means the Special Rating Areas Policy, approved by the Council, which regulates matters relating to SRA's, and must be read in conjunction with this Policy;

"Systems Act" means the Local Government: Municipal Systems Act, No.32 of 2000, as amended;

"Term budget" means the three-year budget of the SRA Management Company, with a forecast of five years, which forms part of the Business Plan;

"The Municipality" means eThekweni Municipality;

"Trading Services property" means property used by the Municipality's Electricity Department; Municipal Parking Areas; Municipal Market Buildings and property used by the Municipality's water, refuse and sanitation departments;

"Use" in relation to the levying of a rate for different categories of rateable property, means actual use contemplated in Section 8(1)(a) of the Act and relates to the activity that takes place on the property; and

"Vacant Land" means, subject to the provisions of Section 9 of the Act, a rateable property where no immovable improvements have been erected.

PROBLEM STATEMENT

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

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

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

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

POLICY

1. INSTITUTIONAL REQUIREMENTS

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

2. LIABILITY FOR RATES

- 2.1 Rates levied on property must be paid by the owner of the property.
- 2.2 Joint owners or trustees of a trust are jointly and severally liable for payment of Rates on the property, the one paying the other to be absolved.
- 2.3 Service of accounts or documents or process on any one owner is deemed to be service on all owners.
- 2.4 Where the transfer and registration of ownership of a property is tainted by fraud, the current registered owner as recorded in the Deeds Office (irrespective of whether or not such owner is an innocent party or was involved in criminal acts in relation thereto) shall remain liable for the payment of rates until such time as the registration of ownership is cancelled in the Deeds Office, and/or set aside by a court, or a court has made a ruling on liability for the payment of rates to the Municipality during the period of ownership in question.

3. AMOUNT DUE FOR RATES

3.1 The Municipality will, by resolution, as part of each annual operating budget process, determine a rate in the rand for every category of property.

In determining the rates randage, cognizance will be taken of the provisions of the MPRRR.

In the MPRR, it is stipulated that the rate on the categories on non-residential property listed in the first column of the table below may not exceed the ratio to the rate on residential properties listed in the second column of the table below, where-

- (i) The first number in the second column of the table represents the ratio to the rate on residential properties;
- (ii) The second number in the second column of the table represents the maximum ratio to the rate on residential property that may be imposed on the non-residential properties listed in the first column of the table-

Category	Ratio in relation to residential property
Residential Property	1:1
Agricultural Property	1:0:25
Public service infrastructure properties	1:0:25
Public Benefit organisation properties	1.0.25

3.2. Rates may be changed annually, in accordance with the budget resolution, as result of—

- a) any increase in the Budget;
- b) any increase in rebates, exemptions and or reductions;
- c) any Regulatory changes to ratio's as prescribed in terms of section 19 of the Act;
- d) any decrease in the market value of property; e) any removal, amendment or suspension of restrictive conditions or servitudes registered against a property; or

f) any other related reason not listed above.

4. METHOD AND FREQUENCY OF PAYMENT OF RATES

4.1 The Municipality shall recover a rate on a monthly basis in 12 near equal instalments, together with any supplementary rates.

4.2. The Municipality may recover a rate annually, on application, from owners with fifty (50) or more property rates accounts under the following conditions:

4.2.1 Such application must reach the Municipality on or before 30 April of each year and

4.2.2 Such annual amount must be paid by 31 October of each year.

4.3. The Municipality may recover a rate annually for National and Provincial Government owned property.

4.4 Liability for the payment of rates, including the Additional rate, shall not be affected (or suspended) by reason of non-compliance in any respect, with the provisions of this Policy, or on account of an objection, query or an appeal that is lodged in term of the Act.

4.5 The Municipality may publish a number of Supplementary Valuation Rolls during the year, in accordance with Section 78 of the Act. The rates, as adjusted by the Supplementary Valuation Roll, will be levied accordingly.

4.6 Unless otherwise specified in Section 78 of the Act, relief and rates will not be raised or implemented retrospectively.

5. CATEGORIES OF PROPERTY

5.1 The Municipality may levy different Rates for different categories of rateable property, the details of which are contained in **ANNEXURE A** attached hereto.

5.1 1 The categories of rateable property will be determined according to the use of such rateable property and shall be rated accordingly in terms of this Policy read with subsection (2) and (3) of the Act.

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

5.3. The Municipality does not separately value rights in land except:

- a) public service infrastructure;
- b) rights of extension in sectional title schemes;
- c) registered leases within identified rural areas of the Municipality and
- d) deed of grant rights

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

5.5. The Municipality has identified the following categories of property in accordance with Section 8 of the Act-

- a) Residential property;
- b) Industrial property;
- c) Business and Commercial property;
- d) Agricultural property;
- e) Mining property;
- f) Property owned by an organ of state and used for public service purposes;
- g) Public service infrastructure property;

- h) Property owned by public benefit organisations and used for specific public benefit activities;
- i) unauthorised or illegal development or use, and abandoned property or building;
- j) Vacant land; and
- k) Sectional Title Registered Real Rights of Extension.

5.6 Where a property is used for multiple purposes, the Municipality will assign the appropriate categories listed in Clause 5.5 to the different purposes for which the property is used.

5.7 The prohibition on the levying of rates on Public Service Infrastructure is limited to properties referred to in Section 17 (1) (aA) of the Act.

5.8 Without derogating from the provisions of the Act, where Vacant Land has been improved by the erection of a structure in accordance with a valid building plan approved in terms of legislation the Municipal Valuer may be guided by the date on which an occupancy certificate was issued in terms of Section 14 of the National Building Regulations for the purpose of initiating a supplementary valuation in terms of Section 78 of the Act and re-categorising the property.

6. CATEGORIES OF OWNERS OF PROPERTY

6.1 For the purposes of the Act and any exemptions, reduction and rebates contemplated in Section 15 thereof, the Municipality has determined the following categories of owners of property:

- a) residential;
- b) senior citizens;
- c) disability grantees or medically boarded persons;
- d) child headed households;
- e) public benefit organisations;
- f) life rights schemes and retirement complexes;

- g) bed & breakfasts, back packer lodges, holiday accommodation and student accommodation;
- h) schools not for gain;
- i) sporting bodies;
- j) land reform beneficiaries;
- k) municipal;
- l) Trust property contemplated in Clause 7.10;
- m) owners of property situated within an area affected by:
 - i. a disaster within the meaning of the Disaster Management Act, or
 - ii. Any other serious adverse or economic condition determined by resolution of the Council at its annual budget meeting;
- n) vacant land;
- o) nature reserves or conservation areas; and
- p) owners of property who qualify for the economic development incentive rebates rebate referred to Clause 14.
- q) Green Certified Buildings as contemplated in Clause 7.15.

7. EXEMPTIONS, REBATES AND REDUCTIONS ("RELIEF")

Introduction

- a) The Municipality may, in terms of the criteria set out in this Policy exempt a specific category of owners of properties, or the owners of a specific category of properties, from the payment of a rate levied on their property; or grant to a specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties, as determined in this Clause 7.

The Municipality is precluded by Section 15 of the Act from granting relief to owners of properties on an individual basis, except only as a category of owners.

In accordance with of Section 15(3) of the Act, the Municipal Manager will annually table in the Council of the Municipality-

- i. a list of all exemptions, rebates and reductions granted by the Municipality during the previous financial year; and
- ii. a statement reflecting the income for the Municipality foregone during the previous financial year by way of such exemptions, rebates and reductions.

Applications for Relief

- b) The Owner must make application for Relief in a prescribed form no later than 30 April preceding the new Municipal financial year for which Relief is sought. Relief shall only be granted upon approval of the application by the Municipality. Unless indicated to the contrary in this Policy, Relief shall become effective on 1 July of the financial year for which it is sought.
- c) Once the application is approved, it must be renewed annually in the prescribed form, and must reach the Municipality no later than 30 April preceding the new Municipal financial year for which Relief is sought.
- d) Unless indicated to the contrary in this Policy, the existing application will lapse should it not be renewed annually before 30 April preceding the new Municipal financial year. Relief will only be re-instated prospectively from the next practical billing cycle once a renewal application, in the prescribed form, has been approved. The onus is on the beneficiary to ensure that that the Relief has been renewed.
- e) All exemptions, rebates and reductions are subject to an amount determined by a resolution of Council when approving the Municipality's annual budget.
- f) No category of owner shall qualify for multiple rebates except for Senior Citizens, Disability Grantees, Child Headed Households and Medically Boarded persons.

- g) Unless indicated to the contrary in this Policy, Relief will lapse:
- i) at the end of the Municipal Financial Year for which it was granted; or
 - ii) where the applicant ceases to meet all the relevant qualifying criteria;
or
 - iii) on date of transfer of the property.

7.1 RESIDENTIAL PROPERTY

7.1.1 The Act imposes a R15 000 exclusion in the value of residential property. Accordingly, the Municipality will not levy a rate on the first R1 5 000 of the market value of Residential Properties as set out in section 17(1) (h) of the Act.

7.1.2 The Municipality may grant a rebate on the rates payable on residential property by resolution of Council at its annual budget meeting.

Unless the Council determines otherwise at its annual budget meeting, such rebate will be granted on an application basis as contemplated in Clause 7 (b).

7.1.3 The Municipality may grant an exemption from the payment of rates on residential property, or a reduction on the valuation of residential property in accordance with a resolution of the Council at its annual budget meeting.

7.1.4 In determining relief to be granted to owners of residential properties, cognisance will be taken of indigent owners in respect of their primary property for relief in terms of Section 3(3)(f) and Section 15(2)(a) of the Act read with the eThekweni Municipality: Indigent Policy.

7.2 SENIOR CITIZENS

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

7.2.1 Subject to the criteria set out in Clause 7.2.2 and 7.2.3, Senior Citizens may be granted a rebate on their Primary Property, with effect from the next practical billing cycle, following the date of approval of an application.

7.2.2 The criteria for the grant of the Senior Citizens' Rebate are as follows:

7.2.2.1 The applicant -

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

7.2.2.2 The property in respect of which the rates rebate application applies, must meet the following criteria:

- a) The property must be the Primary Property of the applicant;
- b) The value of the property must not exceed a value as determined by the Council when approving the Municipality's annual budget.
- c) In the case of the co-ownership of a property other than in terms of a marriage in community of property, the property must be registered jointly in the names of the applicant and the co-owner (who must be a natural person and meet the applicable criteria for a Senior Citizen, as stipulated in Clause 7.2.2.7) in equal and undivided shares;
- d) In the case of a property subject to a usufruct or a personal servitude of use or habitation in favour of the applicant, such right of usufruct, use or habitation must be registered; and
 - e) In the case of owners married in community of property, the property must be registered in the name of the applicant, and/or the applicant's spouse;

7.2.2.3 The rebate will only be granted to an applicant in respect of one property.

7.2.2.4 In the case of a property registered in the name of a Trust:

- a) the application must be made by the trustee(s) of the Trust; and
- b) all the beneficiaries of the Trust must meet the criteria in Clause 7.2.2; and
- c) the trustee(s) must submit with the application for the rebate, certified copies of:
 - (i) the title deed of the property; and
 - (ii) the trust deed; and
 - (iii) any document amending the trust deed; and
 - (iv) the current Letters of Authority in respect of the Trust.

7.2.2.5 In the case of an application by the holder of a usufruct or a personal servitude of use or habitation, the applicant must submit with the application:

- (i) the title deed of the property; and
- (ii) where applicable, the registered notarial deed of usufruct or use or habitation.

7.2.2.6 In the case of owners married in community of property, and only one spouse is a Senior Citizen, the property may still qualify for a rebate under this Policy, and the application must be made by the spouse who is a Senior Citizen.

7.2.2.7 In the case of the co-ownership of a property other than in terms of a marriage in community of property:

- a) All the owners in their individual capacities must meet the applicable qualifying criteria for a Senior Citizen; and

- b) The property must be registered jointly in the names of the applicant and the co-owner (who must be a natural person) in equal and undivided shares.

7.2.3 The Senior Citizens Rebate will lapse —

- a) on the death of the applicant if the applicant owns 100% of the property;
- b) on the date of transfer of the property;
- c) when the applicant ceases to reside permanently in the property;
- d) in the case of a property registered in the name of a trust, when the beneficiaries no longer meet the qualifying criteria; ^{e)}in the case of a property which is subject to a usufruct or a personal right of use or habitation, when the holder of the right of usufruct, use or habitation no longer meets the qualifying criteria;
- f) at the end of the Municipal Financial Year for which the rebate is granted;
- g) when the primary property undergoes a category change and no longer meets the qualifying criteria for relief; or
- h) on the date of transfer of the applicant's undivided share in the property, in the case of co-ownership in equal and undivided shares as contemplated in Clause 7.2.2.7.

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

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

7.2.6 For the purposes of Clause 7.2.2.3, an owner in a Sectional Title Scheme who owns, in addition to the residential unit, a garage, parking, granny flat or storage room, on separate Title, is deemed to be the owner of one (1) property.

7.2.7 For the purposes of Clause 7.2.2.3, an owner of two or more properties which are notarially tied to each other, is deemed to be the owner of one (1) property.

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

- a) Representations shall be made by submitting an affidavit or affirmation, signed before a Commissioner of Oaths, indicating the reasons for the failure to make timeous application for the renewal of the Relief and the grounds why the renewal of the Relief should be granted. The prescribed renewal application form, duly completed, must accompany such document.
- b) Any representations must be submitted within three (3) months of the new Municipal financial year for which the relief is sought (i.e. by 30 September).
- c) A panel of 3 officials within the Revenue Management Unit, nominated by the CFO, one (1) of whom shall be the Head Revenue Management, will consider the representations and reply thereto in writing.
- d) Such panel may conduct independent investigations to verify the facts or call for additional information.
- e) The panel may-
 - (i) Allow the representations if there are reasonable grounds indicating that the Relief ought to be renewed in which event the Relief will apply in respect of the whole of the Municipal financial year for which the Relief is sought, subject to clause 7.2.3.
 - (ii) Reject the representations if there are no such reasonable grounds.

7.3 DISABILITY GRANTEES OR MEDICALLY BOARDED PERSONS

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

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

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

- a) Disability grantees: the applicant must be in possession of a letter, issued by the Department of Social Services, confirming receipt of a disability grant, or a specialist medical practitioner confirming disability and inability to work;
- b) Medically boarded persons: the applicant must produce a letter from the Applicant's relevant ex-employer or the underwriter for the employer confirming medical boarding;
- c) The applicant must produce a South African bar-coded identity document or Smart Identity Card;
- d) The applicant must reside on the Primary Property;

- e) The applicant must be the registered owner of the Primary Property. Where couples are married in community of property, the property may be registered in the name of either spouse where such property constitutes part of the joint estate;
- f) Joint owners must each meet the above criteria (where applicable) or the criteria set out in Clause 7.2 (i.e. as a senior citizen / disabled / medically boarded person);
- g) In the case of a Trust, the beneficiaries must meet all of the above criteria. A copy of the Title Deed must be produced,
- h) In the case of a usufruct or a personal servitude of use or habitation in favour of the applicant, such right of usufruct, use or habitation must be registered in the Deeds Office. The holder of the personal servitude must meet all of the above criteria, where applicable. A copy of the Title Deed must be produced. The holder/s of the servitude will be granted the rebate jointly on one property only; and
- i) Executors/Administrators of deceased estates, liquidators and trustees of insolvent estates are excluded from any rebates.

7.3.3 The rebate will lapse:

- a) Subject to Clause 7.3.3(e), on death of the applicant if the applicant owns 100% of the property;
- b) on the date of transfer of the property;
- c) When the applicant ceases to reside permanently on the primary property;
- d) In the case of a property registered in the name of a medically boarded person when a medically boarded person gains employment;
- e) At the end of a Municipal financial year for which the rebate is granted;
- f) When the property undergoes a category change and no longer meets the qualifying criteria for Relief.

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

7.4 CHILD HEADED HOUSEHOLDS

7.4.1 A property shall be classified as a “Child Headed Household” if either:

7.4.1.1 all the occupants of the property are minors; or

7.4.1.2 the adult/s occupying the property together with a Minor/s are so

debilitated by age or disease that they are unable to function as the

head of the household; and

7.4.1.3 a social worker from the Department of Social Welfare has investigated the circumstances of the property and has certified that the circumstances set out in **Clause 7.4.1.1** and **7.4.1.2** apply to the property.

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

7.4.2.1 The property is registered in the name of a debilitated adult or one or more minors, or in the name of an adult who has died; and

7.4.2.2 The minors reside permanently on the property; and

7.4.2.3 The value of the property must not exceed a value as determined by resolution of Council at its annual budget meeting.

7.4.3 The application for the rebate must be accompanied by confirmation from the Department of Social Welfare that the criteria set out in Clause 7.4.1.1 or in 7.4.1.2 have been met and that in fact the property is headed by a minor.

7.4.4 In addition, if the property is registered in the name of one or more persons who have died, the application must be accompanied by:

7.4.4.1 A copy of the Letters of Executorship or the Letters of Administration in respect of the estate of the registered owner;

7.4.4.2 A copy of the Liquidation and Distribution Account or the Statement of Assets and Liabilities authorising the transfer of the property to the minor(s), if those documents have been drafted and submitted to the Office of the Master of the High Court.

7.4.5 In the case of a property where the only adult occupant(s) is/are terminally ill, the application must be accompanied by a certified copy of the medical report confirming that the adult(s) is/are terminally ill.

7.4.6 An application for a rebate must be renewed annually and endorsed by the Department of Social Welfare as contemplated in **Clause 7.4.3**.

7.4.7 The Rebate will lapse –

7.4.7.1. once the minor reaches the age of 18;

7.4.7.2. on the date of transfer of the property;

7.4.7.3. when the minor(s) cease(s) to reside permanently in the property; or

7.4.7.4. if the Department of Social Welfare certifies that it no longer regards the household as a Child Headed Household;

7.4.7.5. if an application is not submitted annually (and in this regard late applications may be reinstated with effect from the next billing cycle);
or

7.4.7.6. when the property undergoes a category change and no longer meets the qualifying criteria for relief.

7.5 PUBLIC BENEFIT ORGANISATIONS

Exemption from rates

7.5.1 The Municipality may grant a Public Benefit Organisation exemption from the payment of rates where the activities listed below are carried out on a property, for the benefit of the public or a section thereof, subject to Clause 7.5.2:-

i) Welfare & Humanitarian

Orphanage, Non-profit retirement village, Life – rights scheme; Old age home, Residential facility for physically and or mentally disabled persons.

ii) Health Care Hospital, clinic, mental hospital, hospice.

iii) Animal Welfare Care and protection of animals (aquatic and/or terrestrial), reptiles and/or birds including the rehabilitation, or prevention of the ill-treatment thereof.

iv) Education and Development Training, education and/or rehabilitation of persons with severe physical or mental disability.

v) Cultural Cemetery and/or crematorium;

Promotion, protection, preservation or maintenance of a property with

Heritage Landmark status under the Heritage Act and open to the public.

7.5.2 An Exemption shall be subject to the following conditions:

- i) The property must be registered in the name of the applicant and be used for any purpose listed in **Clause 7.5.1**.
- ii) The Public Benefit Organisation must produce:
 - (a) a tax exemption letter of approval issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, No.58 of 1962, and
 - (b) also, a tax clearance certificate confirming that the Public Benefit Organisation is in good standing.
- iii) The Public Benefit Organisation must produce its Audited Financial Statements for assessment by the CFO.
- iv) The CFO has the right to conduct a full financial analysis and credit check of the Public Benefit Organisation and to call for such other documents as may be considered relevant to the consideration of the application.

The purpose of granting an exemption in terms of this Policy is to assist Public Benefit Organisations with limited resources that are liable for the payment of rates and not for those who have the ability to pay as determined from their Audited Financial Statements by the CFO in terms of **Clause 7.5.2 iii**).

An assessment to determine ability to pay, will entail the following:

- (a) Analysing the Audited Financial Statements in terms of income and overall resources;
 - (b) Examining the credibility of year on year expenditure;
 - (c) Ensuring that profits or surpluses are calculated by excluding transfers to reserves and excessive writing off or depreciation of assets;
 - (d) Comparing the total annual turnover to the rates billed to determine whether the rates exceed 5% of the total turnover;
 - (e) Disregarding accumulated reserves for specific purposes;
 - (f) Excluding funds raised from external sources (such as grants, subsidies and donations).
- v) All municipal accounts held in the name of the Public Benefit Organisation must be up to date at date of the application, or the Public Benefit Organisation must have concluded a suitable arrangement with the Municipality in terms of its Credit Control and Debt Collection Policy.
- vi) The Public Benefit Organisation must produce a Special Consent Authority or a Zoning Certificate from the Municipality's Land Use Management Department confirming that the use of the property is not in breach of any planning law or Planning Scheme.
- vii) The exemption will only be granted after an official application has been made and approved by the CFO.

- viii) The Municipality retains the right to refuse an application for exemption if the details supplied on the application form are incomplete, incorrect or false.
- ix) The use of any land or buildings, or any part thereof, in terms of **Clause 7.5.1**, shall not be for the private pecuniary benefit of any individual, whether as a trustee in a trust, shareholder in a company or otherwise.
- x) Notwithstanding compliance with all the conditions set out in **Clause 7.5.2**, an application from a Public Benefit Organisation may be refused if an assessment of the Audited Financial Statements shows that the Public Benefit Organisation is not adhering to the criteria/conditions for Public Benefit Organisations as set out in Section 30 of the Income Tax Act, No.58 of 1962, as amended read together with the Ninth Schedule thereto.
- xi) If, during the currency of any Municipal financial year, any exempted property is used for any purpose other than the purpose for which it was so exempted, the owner shall become liable to the Municipality for any rates that, had it not been for the exemption, would have been payable on the property with effect from the date the event occurred. The amount for which the owner becomes liable shall be regarded as rates in arrears and the owner shall be liable, in addition to the rates, to pay to the Municipality interest thereon at the rate prescribed in the Municipality's Credit Control and Debt Collection Policy.
- xii) The property shall not be owned by the State.

- xiii) Application for exemption must be made on an annual basis, by no later than 30 April preceding the new Municipal Financial Year. A failure to do so will result in the Public Benefit Organisation not qualifying for the exemption for that particular Municipal Financial Year.

- xiv) An exemption granted, will apply for the full Municipal Financial Year unless the reason for granting the exemption ceases to apply during the year.

Public Benefit Organisations that do not qualify for an exemption

7.5.3 Without derogating from the provisions of Clause 7.5.1, the MPRRR prescribes that property owned by a Public Benefit Organisation and used for a 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, will be rated at no more than 25% of the residential property rate-in-the rand. Expressed as a ratio in relation to residential property, this is 1.0.25.

In order for the Municipality to categorise properties as a Public Benefit Organisation property and apply the MPRRR, an application for a change in the property rating category must be made, in the prescribed form, to the municipal valuer.

The following requirements must be met-

- i) The registered owner must be a PBO;

- ii) The registered owner must provide an exemption letter from SARS confirming that the registered owner is a PBO;

- iii) Where a property of a PBO is used by a person other than the registered owner, the user/lessee of the property must also be a PBO; and its exemption letter from SARS must be provided;
- iv) The property must be used for specified public benefit activities in accordance with items 1, 2 or 4 of the Nineth Schedule of the Income Tax Act and as contemplated in the MPRRR;
- v) Both the registered owner and, where applicable, the user/lessee that is a PBO, must provide copies of their organisation's memorandum of incorporation/founding documents and such other documents as the CFO or the municipal valuer may consider relevant to the consideration of the application/categorisation of the property.
- vi) The registered owner must provide a copy of the title deeds of the property and in the case of a PBO user/lessee of the property, a copy of the lease agreement.

All other property owned by public benefit organisations that do not fall within the definition prescribed in the MPRRR, and by virtue of the use of the property, does not fall within any other of the property categories, will be rated as a Business and Commercial property.

7.6 LIFE RIGHTS SCHEMES AND RETIREMENT COMPLEXES

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

7.6.2 Qualifying Criteria—

- a) the scheme/complex/development must be registered in terms of the Housing Development Schemes for Retired Persons Act, No.65 of 1988;
- b) the scheme/complex/development must be registered with and regulated by the South African Association for Homes for the Aged (SAHA); and
- c) the Title Deeds of the property must be appropriately endorsed.

7.7 COMMERCIAL ACCOMMODATION

On approval of an application, commercial accommodation specified hereunder, may receive a rebate not exceeding an amount and or a percentage as determined by Council when approving the Municipality's annual budget.

7.7.1 Qualifying Criteria for Bed Breakfast / Back-packer lodge/Holiday Accommodation:

- a) Except in the case of Holiday Accommodation and Back-packer lodges, the owner of the property, must permanently reside on the property.

Where a Juristic Person is the registered owner of the property, at least one director/member/trustee thereof must reside permanently on the property, with the exception of Holiday Accommodation and back-packer establishments.

The following documentation, where applicable, must be provided by a Juristic Person to confirm that it qualifies for a rebate:

- (i) A report from the Office of the Companies and Intellectual Properties Commission, not older than 3 months, providing details of the directors/members of the Juristic Person;

- (ii) A copy of the letters of authority of the trustees in the case of a registered trust;
- (iii) A copy of an account in the name of the director/member/trustee who resides on the property confirming the residential address of such person. In the absence of such account, the CFO may accept an affidavit.
- (iv) A copy of the Identity Documents of such directors/members/trustees

No rebate will be granted where any director/member/trustee of such Juristic Person is also a director/member/trustee of another Juristic Person that likewise owns a Bed and Breakfast, or Back-packer lodge within the jurisdiction of the Municipality.

- a) The Bed & Breakfast / Back-packer lodge/Holiday Accommodation must be registered with a CTO and EDTEA. The applicant must meet the criteria set by Durban Tourism and all membership fees or other fees payable to Durban Tourism and the CTO must be paid up to date.
- b) applicant must provide details of the establishment in respect of total size of developed property, total number of rooms and facilities available to guests. This will be required to be certified by Durban Tourism.
- c) A permit/licence in terms of the Municipality's By-law dealing with accommodation establishments, and Town Planning approval must accompany the application, where applicable.
- d) A valid approval issued by an authorised representative of the Municipality's Fire Department must accompany the application.
- e) The relevant CTO must confirm its support for the rebate renewal application by certifying the applicant's rebate renewal application form.

- f) In the case of Holiday Accommodation that is the subject of a rental pool scheme in respect of:
 - (i) A property timesharing scheme
 - (ii) A sectional Title Scheme
 - (iii) A share block scheme

Where the rental pool scheme is carried on separately from the owners, the applicant must produce a SARS ruling that such rental pool scheme is carried on as an agent of the owners or shareholders and not as a separate enterprise.

- (g) The property must not comprise of a rental pool structure which is managed by a rental pool management company or hotel management company (as evidenced by the sale and rental pool agreement concluded by the owner of the property) and in respect of which the owner is entitled to a share of the income stream attributable to the property.

7.7.1.1 Rebates

Although the establishments listed in Clause 7.7.1 are rated as Business and Commercial, a property may qualify for a rebate as contemplated below. The purpose of granting a rebate is to promote the sustainability and enhance the competitiveness of small and medium enterprises whilst also ensuring that proper record keeping of such establishments is achieved.

a) Bed & Breakfast establishments

- i) A rebate not exceeding an amount as determined by Council at its annual budget meeting, will apply.

In determining such rebate Council may differentiate between Bed & Breakfast establishments based on the number of bedrooms available and/or land uses applicable on a property.

b) Back —packer lodges

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

c) Holiday Accommodation

- i) A property let out for the purposes of holiday accommodation, may receive a rebate not exceeding an amount or a percentage as determined by Council at its annual budget meeting.
- ii) In addition to complying with the applicable provisions of Clause 7.7.1, the applicant must provide proof of compliance with the provisions of Clause 7.7.3.

7.7.2 Student Accommodation

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

Qualifying Criteria:

- a) Owners must apply annually. Failure to apply will result in a lapse of the rebate.
- b) A list of students and student registration certificates must accompany the application.
- c) There must be at least four (4) learners or students occupying the property.
- d) The property must be available to students or learners for a period exceeding hundred and eighty (180) days in any given year.
- e) Lease agreements with higher education Institutions and or with the student or learner, where applicable must be included.
- f) A copy of a permit or approval as may be required by law for the conduct of a student accommodation establishment must be provided. (e.g. planning consent; a permit / licence issued under the Municipality's By-law dealing with accommodation establishments, if applicable), duly certified by a Commissioner of Oaths as a true copy of the original document.
- g) A clearance certificate from the Municipality's Environmental Health
- h) A valid approval issued by an authorized representative of the Municipality's Fire Department.
- i) In the case of property owned by an Organ of State which is an institution of Higher learning:
 - (i) The Organ of State must be registered under the Higher Education Act, No. 101 of 1997, as amended.
 - (ii) The property must be located within an area identified in the Land Use Scheme, as appropriate for student accommodation.
 - (iii) The Council is vested with the sole discretion as to whether a rebate can be granted.
 - (iv) The special criteria in (i) - (iii) shall not derogate from the other general criteria contained under Clause 7.7.2.

- (v) An application must be submitted within three (3) months of the new Municipal Financial Year for which the rebate is sought (i.e. by 30 September).
- j) Any rebate will lapse should any legislation applicable to the use of the property for student accommodation, be contravened and such breach not be rectified notwithstanding written demand or directive to do so by the Municipality or any other competent authority.

7.7.3 Information relating to Holiday Accommodation

7.7.3.1 For the purposes of implementing and enforcing the provisions of this Policy, the levying of and recovery of amounts due for, rates on property, the maintenance of an updated valuation roll and verifying information, any Person.

7.7.3.1.1 Providing Holiday Accommodation or allowing Holiday Accommodation to take place on a property or premises;

7.7.3.1.2 Conducting a rental pool scheme relating to the provision of Holiday Accommodation either as Owner, Body Corporate, Operator or as an agent on behalf of an Owner or occupier of property or premises, must, by no later than 30 April of each financial year, furnish the Municipality with a written statement in a prescribed form, specifying,

- a) the property that is used for Holiday Accommodation and furnishing the property description as registered in the Deeds Registry Office of KwaZulu-Natal;

- b) In addition to (a) above, in the case of Timeshare or Share block Schemes, the name of the Scheme and details pertaining to the flat or unit on the property being used for Holiday Accommodation;
- c) In addition to the information set out in (a) and (b) above, such other information and particulars as may be prescribed so as to achieve the objectives mentioned in **Clause 7.7.3.1**.

7.7.3.2 Where-

7.7.3.2.1 A person commences any activity specified in Clause 7.7.3.1.1 or 7.7.3.1.2, in any Financial Year, such person must notify the Municipality within forty-five (45) days of such event. Such notification must be in a prescribed form and be supported by a valid written consent of the trustees of the Body Corporate or their authorized agents, in the case of a Sectional Title Scheme and, in the case of a share block scheme, by a valid written consent of a duly authorized representative of the share block company.

7.7.3.2.2 A juristic person furnishes a written statement referred to in Clause 7.7.3.1, such statement must be signed by at least one (1) duly authorized office bearer/director/member of the juristic person.

In the event of a person ceasing to provide Holiday Accommodation in respect of a property or premises or withdrawing a property or premises from a rental pool scheme, the Owner or, as the case may be, the Operator, must notify the Municipality within forty-five (45) days of such event.

7.7.3.4 A person who fails to-

7.7.3.4.1 furnish a written statement in terms of Clause 7.7.3.1 or on request by the

Municipality; or

7.7.3.4.2 notify the Municipality within the time period contemplated in Clause 7.7.3.3, commits an offence, in addition to such other remedies that the Municipality may have in terms of this Policy or the law.

7.8 SCHOOLS NOT FOR GAIN.

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

- a) The applicant must produce a tax exemption letter of approval issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, No.58 of 1962;
- b) The CFO must consider all applications;
- c) The Municipality retains the right to refuse an application if the details supplied in the application form are incomplete, incorrect or false;

- d) The use of any land or buildings, or any part thereof, shall not be for the private pecuniary benefit of any individual, whether as a shareholder in a company or otherwise;
- f) If during the currency of any Municipal financial year, any such land or building is used for any purpose other than the purpose for which it was so granted a rebate, the Municipality shall impose rates thereon or on such portion so used, at a rate proportionate to the period of such use;
- g) The School Not for Gain must produce its Audited Financial Statements for assessment by the CFO;
- h) The CFO has the right to conduct a full financial analysis and credit check of the School Not for Gain and to call for such other documents as may be considered relevant to the consideration of the application; and
- i) Notwithstanding anything contained in this Policy to the contrary, the Department of Education or the Department of Public Works (National or Provincial) as the case may be, may make application for Relief on behalf of all or certain, qualifying public schools within the jurisdiction of the Municipality either in a combined application or on an individual basis.

7.9 SPORTING BODIES

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

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

7.9.3 Applicants must produce a tax exemption letter of approval issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, No.58 of 1962.

7.10 PROPERTIES IN THE OWNERSHIP OF THE MUNICIPALITY OR MUNICIPAL ENTITIES OR HELD IN TRUST BY THE MUNICIPALITY

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

7.10.2 Council may, by way of a resolution at its annual budget meeting, grant a rates rebate, reduction or exemption in respect of property in the ownership of municipal entities. Such relief may be in respect of the whole of the property or a portion thereof, where the property is used for multiple purposes and the Council determines that relief should apply to a particular category.

7.10.3 Properties held in trust in perpetuity by the Municipality in terms of a testamentary trust and where municipal officials hold letters of authority in terms of the Trust Property Control Act, 1988 (Act No.57 of 1988) are exempted from rates unless an agreement between the Municipality and any person specifies the contrary.

7.11 DISASTERS

7.11.1 The Council may determine, at its annual budget meeting, to grant a rebate to owners of property within an area affected by a disaster within the meaning of the Disaster Management Act.

A 'disaster' in terms of the Disaster Management Act, "means a progressive or sudden, widespread or localised natural or human-caused occurrence which-

(a) causes or threatens to cause

- (i) death, injury or disease;*
 - (ii) damage to property, infrastructure or the environment;*
 - (iii) significant disruption of the life of a community; and*
- (b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using on their own resources."*

7.11.2 The applicable requirements for a rebate are:

- (i) The owner must apply to the Municipality for a rebate on the prescribed form accompanied by such proof as the Council and/or the CFO; may require, substantiating the application;
- (ii) Land or buildings on the property must have suffered damage or been rendered incapable of occupation or habitation. If more than 60% of a property is certified by the Municipality's Building Inspectorate as capable of occupation/habitation in terms of the National Building Regulations, then the owner will not qualify for the rebate. In lieu of a report from the Municipality's Building Inspectorate, the owner, may, in the discretion of the CFO, be allowed to lodge a report from a registered Structural Engineer.
- (iii) An application must be made within sixty (60) days from the date of the disaster.

7.11.3 In making a determination in terms of Clause 7.11.1, the Council-

- (i) may determine a time frame by which an owner must restore what was damaged, destroyed or rendered uninhabitable. Subject to Clause 7.11.3, such period shall not exceed twelve (12) months;
- (ii) may determine a maximum rebate threshold in respect of any event contemplated in the definition of 'disaster' in the Disaster Management Act;

7.1 1.4 The Municipality may grant a further extension of the rebate duration period referred to in Clause 7.11.2, on application. The applicant must apply no later than forty-five (45) days prior to the expiry of such duration period. Any further period will be subject to the further rebate period determined by the Council at its annual budget meeting, but such period shall not exceed twelve (12) months.

7.11.5 The Council may determine that owners of property that are rendered unusable and/or uninhabitable in their entirety, as a direct consequence of a landslide or subsidence on account of a natural event such as a storm or flood, shall be granted an exemption from, or be entitled to a rebate on, the rates payable in respect of those properties. An exemption from the payment of rates may be subject to a fixed duration and such duration shall not exceed two years.

7.11.6 A rebate does not apply where-

- (i) Immediately prior to the disaster, evidence exists that the owner or occupiers of the property were in breach of national, provincial or municipal legislation relating to activities being conducted on the property and such breach had never been remedied alternatively, the consequences of such breach were of such a magnitude as to affect the local community and/or the environment.
- (ii) Restorative work on the property has not substantially commenced within six (6) months of the date of the disaster. Unless an owner can show that building/development plans have been submitted to the Municipality or a building contract has been concluded, the rebate shall be withdrawn, and the owner shall become liable for the full amount of the rates payable on the property.

7.11.7 A further rebate period-

- (i) shall not be granted where the delay in the restoration of the property, is attributable to wilful or negligent neglect or omission on the part of the owner.

- (ii) must be fully motivated. The CFO shall have a discretion to call for additional documentation or information.

7.11.8 Nothing in this Clause 7.1 1, shall derogate from the provisions of Clause 78 of the Act and-

- (i) the right of the municipal valuer to revalue a property in respect of which the market value has substantially decreased on account of a disaster contemplated in Clause 7.11.1; or
- (ii) the right of the owner of a property to make application for the revaluation of the property on account of a disaster contemplated in Clause 7.11.1. An application must be made within sixty (60) days of such disaster.

7.11.9 A totally destroyed property may be revalued as vacant land.

7.11.10 An owner who cannot afford to restore a property to its pre-disaster state within the time period prescribed, may still qualify for a rebate provided the following requirements are met-

- (i) The owner must produce the latest financial statements, if a Juristic Person or a copy of the owner's latest tax return, if a natural person;
- (ii) The property must be the sole immovable property of the owner;
- (iii) The owner complies with any request by the CFO for any additional documentation.

7.12 VACANT LAND

7.12.1 Subject to Clause 7.12.2, the Municipality may grant a reduction in market value of all vacant land, not exceeding an amount as determined by Council when approving the Municipality's annual budget.

7.12.2 Vacant land which is considered developable in terms of applicable law may not be granted such reduction in market value.

7.12.3 Vacant land situated in the Outside Urban Development Line and within an area determined by Council at its annual budget meeting, may be excluded from a reduction in market value for the purposes of encouraging capital investment in such area.

7.13 CONSULATES

Property owned by Consulates shall be valued and rates shall be raised and recovered from the Department of International Relations and Co-operation in terms of the Diplomatic Immunities and Privileges Act, No.37 of 2001.

7.14 OTHER IMPERMISSIBLE RATES

- a) The Municipality will not levy a rate where it is impermissible to do so in terms Section 17 of the Act.
- b) The Municipality shall be entitled to request such documents as approved by the CFO, from owners of property, in order to ensure adherence to Section 17 of the Act.

7.14.1 Land reform beneficiaries

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

7.14.2 Nature Reserves / Conservation Areas

7.14.2.1 Nature Reserves and Conservation areas which are proclaimed in terms of the National Environmental Management: Protected Areas Act, No.57 of 2003 shall be excluded from rates.

7.14.2.2 Newly Proclaimed Nature Reserves/Conservation areas shall receive exclusion upon application and production of the relevant Proclamation.

7.14.2.3 Nature Reserves not proclaimed as aforesaid, shall be rated as vacant land.

Once an owner is in receipt of an Environmental Certificate contemplated in Clause 7.14.2.4, the property will be revalued in accordance with generally recognised valuation methods and standards, and the provisions of the Act, in particular, Chapter 5 (Valuation Criteria) of the Act.

7.14.2.4 Upon application to the Environment Planning and Climate Protection

Department, an Environmental Certificate may be granted to owners of any piece of land or part thereof, where:

- a) The Municipality considers the land to be environmentally sensitive, e.g. it forms part of the Durban Metropolitan Open Space System (DMOSS);
- b) The land is zoned for conservation purposes or an environmental servitude has been registered in favour of the Municipality over the environmentally sensitive area; and
- c) The landowner, with the assistance of the Municipality, prepares and implements an approved management plan aimed at protecting and improving the local environment.

7.14.2.5 Where an Environmental Certificate contemplated in Clause 7.14.2.4, has been issued, the property will be re-valued in accordance with generally recognised valuation principles, methods and standards and the provision of the Act, in particular, Chapter 5 (Valuation Criteria) thereof.

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

7.14.2.7 An Environmental Certificate will lapse if the owner or any person acting through the owner or on the owner's instructions, breaches any provision of an environmental management plan pertaining to the property or environmental legislation and fails to remedy such breach, notwithstanding a written demand or directive to do so by the Municipality or EDTEA. In such event, the property will be valued in terms of the Act and this Policy. Furthermore, and without derogating from the provision of the Act or this policy, such property may be assigned a rating category of 'Unauthorised or Illegal Development or Use and Abandoned Property or Building'.

7.14.2.8 The Council may, in its annual budget meeting, grant a rebate or reduction in respect of a category of owner of environmentally sensitive land as identified in the Municipality's Land Use Scheme.

7.15 GREEN CERTIFIED BUILDINGS

7.15.1 An owner of a rateable property on which an energy efficient building has been newly erected or on which an existing building has been altered and becomes an energy efficient building, either in the immediate preceding Municipal Financial Year or during the current Municipal Financial Year, may, on application and approval, be granted a reduction or a rebate as determined by Council at its annual budget meeting. In addition to criteria that Council may determine at such meeting, the following criteria will apply-

- a) An application for the rebate or reduction must be made on the prescribed form;

- b) The Green Certified Building must, for rating purposes be assigned a rating category of Business and Commercial, Residential and/or Industrial;
- c) No rebate or reduction on rates will be granted where the owner is already in receipt of an economic development incentive rebate referred to in Clause 14 of this Policy;
- d) An occupancy certificate in terms of Section 14 of the National Building Regulations must have been issued in respect of the Green Certified Building;
- e) The applicant must be in possession of a certificate awarded by the Green Building Council of South Africa in respect of an 'as built' rating.
- f) The Green Certified Building and application for the rates rebate must comply with the requirements contained in this Policy and any other policy of the Municipality relating to the incentivisation of Green Buildings.

7.15.2 The rebate or reduction may be for a defined period or subject to annual application, as determined by Council, when approving the Municipality's annual budget.

7.15.3 No reduction or relief will be granted retrospectively.

7.15.4 Any rebate or reduction will lapse should any environmental, building or planning legislation, be contravened and such breach not be rectified notwithstanding written demand or directive to do so by the Municipality or any other competent authority.

8. AGRICULTURAL PROPERTY

8.1 In order for a property to fall within the definition of "Agricultural Property" in the Act and meet the requirement that such property is 'used primarily for agricultural purposes', an agricultural certificate must be issued by the Municipal Valuer as contemplated in Clause 8.2.

8.2 The Owner must make application for an agricultural certificate on a prescribed form;

8.3 An agricultural certificate may be granted to an owner of any piece of land or part thereof, on the following basis:

- a) The Municipal Valuer is satisfied that such land is used exclusively for bona fide agricultural purposes or subsistence farming;
- b) An application has been lodged with the Real Estate Unit, by no later than 30th April preceding the start of the new Municipal year for which the agricultural certificate is sought;
- c) The Owner has produced a tax certificate, (such as an IT34 certificate) issued by the South African Revenue Services (SARS) proving that they are taxed as a farmer or a mill contract (e.g. in the case of sugar cane) proving that he/she is an active farmer; and
- d) The permitted use of the property for which a rebate is sought, must be agricultural.

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

- 8.5 Once the application referred to in Clause 8.2, is approved, it must be renewed annually in the prescribed form, and must reach the Municipality no later than 30 April preceding the new Municipal Financial Year.
- 8.6 The Municipality may inspect a property before or after granting a rebate and, subject to the rules of natural justice, to revoke or amend any decision made prior to such inspection.
- 8.7 An owner is required to immediately inform the Municipality should the agricultural activity for which the rebate has been granted, cease or be terminated. Rates lawfully due to the Municipality arising from such occurrence may be backdated to the date of such occurrence, in accordance with Section 78 of the Act.

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

9.1 Determination of a SRA

9.1.1 The Municipality may by resolution of the Council, at its annual budget meeting, determine a SRA and the Additional Rate that will be levied on rateable property in such SRA.

9.1.2 An application for the establishment of a SRA must be made and submitted in accordance with the provisions of the Special Rating Areas Policy.

9.1.3 When determining a SRA, the Council must have regard to the provisions of Section 22 of the Act and any additional criteria laid down in the Special Rating Areas Policy.

9.2 Liability for Additional Rate on rateable property

9.2.1 Subject to the provisions of the Act and this Policy:

9.2.1.1 The Additional Rate will apply to all rateable property within a SRA including rateable property owned by an Organ of State.

9.2.1.2 Successors in title to rateable property within a SRA will be liable for the Additional Rate with effect from date of transfer of a rateable property into their name.

9.2.1.3 The Additional Rate in terms of Section 22 of the Act must not exceed 25% of the municipal rates payable by the registered owner of a rateable property

9.3 Exclusion and Exemption

9.3.1 Property that is owned by, or vested in, the Municipality or a Municipal Entity of which the Municipality is the parent Municipality is excluded from payment of the Additional Rate.

9.3.2 The Council may, when approving the annual budget, expressly exclude certain rateable properties that may qualify for a rates rebate, or exempt specific categories of rateable properties or specific categories of owners of rateable property, within a SRA, from liability for the Additional Rate.

9.3.3 Without derogating from Section 93A of the Act read with this Policy, property that is exempt from the levying of rates in terms of Section 17 of the Act, is excluded from payment of the Additional Rate.

9.3.4 Any other categories of owners or property that are exempt from the payment of rates in terms of this Policy or the Act, are excluded from the payment of the Additional Rate.

9.3.5 In addition to the discretion that the Council may exercise in terms of Clause 9.3.2, the Council may exempt rateable properties from payment of the

Additional Rate where they do not exceed a value as determined by the Council when approving the annual budget or when it is determined through the public participation process contemplated in Section 22 of the Act, that liability for the Additional Rates shall be restricted to a certain category of properties only.

9.4 Financial Control

9.4.1 The Additional Rate constitutes a debt owing to the Municipality and is payable and collected in the same manner as other property rates imposed by the Municipality.

9.4.2 In order for the Municipality to pay over any Additional Rate collected to the SRA Management Company, the SRA Management Company must have concluded a Finance Agreement with the Municipality.

9.4.3 No funds will be made available to a SRA Management Company unless the Finance Agreement contains all the prescribed annexures including but not necessarily limited to a Business Plan and Term Budget.

9.4.4 The CFO will at all material times, exercise an oversight role in respect of the SRA's financial viability.

9.4.5 Where a SRA Management Company is in breach of the Finance Agreement and fails to remedy the breach within the period determined in the Finance Agreement, the CFO may report such breach to the Council for the purpose of dissolving the SRA.

9.4.6 The Term Budget of the SRA Management Company must be compliant with generally recognized accounting principles. The CFO may reject and refer back any budget that is not in accordance with such principles.

9.4.7 The SRA Management Company must provide the Municipality with its updated Business Plan by no later than 31 January for the next Municipal Financial Year to enable the Council to consider its recommendations regarding the annual budget amount of the Additional Rate during the municipal budgeting process.

9.4.8 The SRA Management Company must register on the Municipality's supplier database as well as the national treasury database and keep the records updated in order for funds to be transferred by the Municipality to the SRA Management Company in terms of the Finance Agreement.

9.4.9 The Municipality must establish separate accounting and record keeping systems in respect of the income derived from the Additional Rate as set out in the Act.

9.4.10 The CFO must ensure that any amount paid in excess of an amount due to the SRA Management Company, is recovered, if necessary, by way of set off or any other legal mechanism available in law.

9.4.11 If the collection of rates of a SRA falls below 95% or the CFO, after an investigation, determines that a SRA is not financially viable, the Municipality may dissolve the SRA.

9.5 Special Rating Areas Policy

9.5.1 The Economic Development Unit is the custodian of the Special Rating Areas Policy and is responsible for enforcement of the provisions of the Special Rating Areas Policy. In the event of any conflict between this Policy and the Special Rating Areas Policy, this Policy shall prevail.

10. PROPERTIES USED FOR MULTIPLE PURPOSES

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

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

10.1.2 applying the rates applicable to the appropriate categories listed in Clause 5.5, to the different market value apportionments.

11. UNAUTHORISED OR ILLEGAL DEVELOPMENT OR USE AND ABANDONED PROPERTY OR BUILDING

11.1 Where a property is being or, has been developed or is being used without authority or illegally, in contravention of National / Provincial Legislation, any Municipality's By-laws or any Regulations, the Land Use Scheme or any other applicable law, the Municipality Valuer must consider changing its category to the "Unauthorised or Illegal development or use, and Abandoned Property or Building" category.

11.2 Where a property or the buildings on a property have, in the opinion of the CFO, been abandoned and have become or are becoming derelict or unusable in its present condition for the purpose for which it was intended, the CFO may request the Municipal Valuer to consider changing the category of the relevant property to the "Unauthorised or Illegal development or use, and Abandoned Property or Building" category.

11.3 Where an owner or any person occupying privately owned property through such owner unlawfully encroaches upon an adjoining Municipal property, the relevant line department within the Municipality with knowledge of such illegal encroachment must (in addition to any other remedies that the Municipality may have in law) request the Municipal Valuer to consider changing the

category of the offending owner's property to "Unauthorised or Illegal development or use, and Abandoned Property or Building" category, until such time as the unlawful activity ceases.

11.4 Where the Municipal Valuer is required to exercise his discretion to effect a rating category change, as contemplated in Clauses 11.1 and/or 11.3, the Municipal Valuer shall have the right to call for such documentary evidence from the relevant line department(s) as may be deemed necessary to substantiate a rating category change. Such documents may include, but not limited to the following:

- a) copies of statutory enforcement notices and proof of service;
- b) photographic and/or video material;
- c) copies of summonses and statements from relevant in support of criminal proceedings;
- d) Minutes of meetings of internal structures established by relevant municipal line departments relating to any property contemplated in this clause 11;
- e) Court rulings.

11.5 In the event of the Municipal Valuer declining to effect a rating category change to a property in response to a request from a Municipal line department in terms of this Clause 11, the Municipal Valuer must provide written reasons to such line department.

11.6 A property that is assigned a rating category of "Unauthorised or Illegal development or use, and Abandoned Property or Building" will be levied a punitive rate that is substantially higher than any rate levied on other categories of properties. The relevant rate range is determined by the Council at its annual budget meeting. The punitive rate serves as a deterrent to unlawful acts.

11.7 Section 78(4) of the Act sets out the triggers when the revised rates will become payable as a result of a categorization change in terms of this Clause 11.

Due notice of the categorisation change will be given to the owner of a property in accordance with Sections 78(5) and 49 of the Act. An owner can then make use of the legal mechanisms provided for in the Act to lodge a query, objection or an appeal (as the case may be) should the owner wish to challenge the correctness of the property categorisation change.

11.8 The Municipal Valuer may consider re-categorising a property that has a rating category of "Unauthorised or Illegal Development or Use, and Abandoned Property" where cogent evidence exists that the event giving rise to such rating category, has ceased. The category change will be effected in accordance with the provision of Section 78 of the Act.

12. RURAL RESIDENTIAL PROPERTY and RATEABLE RURAL PROPERTY

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

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

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

13. SECTIONAL TITLE PROPERTIES

13.1 Registered exclusive use areas shall be valued together with the sectional title units concerned.

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

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

13.4 The Municipality may value real rights of extension, and such rights shall be rated in accordance with the property category ascribed in terms of Clause 5.6(1) and that rate and range determined by the Council at its annual budget meeting.

13.5 Where registered real rights are being traded, the rights may be included in the valuation roll.

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

14. ECONOMIC DEVELOPMENT

14.1 In order to stimulate economic development within the City, a specific rates rebates, referred to as the "development incentive rebate", may, upon application and approval be granted by the Municipality, as an incentive to the registered owner of a development that is located within an area identified in the Municipality's Economic Development Incentive Policy.

As provided for in Section 15 of the Act, the Municipality has chosen to determine a specific category of owner for the purposes of granting a "development incentive rebate." Such category of owner identified in Clause 6 of this Policy.

14.2 The amount of any particular development incentive rebate and the criteria for the granting of any specific development incentive rebate (without derogating from the provisions of Clause 14.3), shall be determined annually by the Council when approving the Municipality's annual budget,

14.3 The development incentive rebate is informed by the Economic Development Incentive Policy as approved by the Council. (The Economic Development and Investment Promotion Unit is the custodian of the Economic Development Incentive Policy).

In the event of any conflict between this Policy and the Economic Development Incentive Policy, this Policy shall prevail.

14.4 Every individual application for the development incentive rebate together with a draft agreement to be concluded between the Municipality and the owner of the property (the "Contracting Party"), must be submitted to the Council for approval.

14.5 In relation to a Greenfield Investment, the vacant land may receive a rebate on the difference in rate randage of the intended use of the developed land, on approval of building plans based on the following criteria—

- a) the rebate shall be according to the category rate randage of the property as informed by the approved building plan;
- b) the rebate shall be for a defined period;

- c) the Contracting Party shall be under obligation to complete the development within the defined period, (which period shall not exceed the duration stipulated in Clause 14.7.9.)
- d) Subject to annual inflationary linked increases, the rebate shall remain the same, until such time as an occupancy certificate has been issued by the Municipality in terms of Section 14 of the National Building Regulations or upon expiry of the defined period, whichever is the earlier, as per the agreement between the Municipality and the Contracting Party.
- e) Notwithstanding d) above, in the case of a development with a total investment value of R1 billion or more, where:
 - i) a registrable subdivision is developed, and an Occupancy Certificate has been issued; or
 - ii) a Certificate of Registered Title has been issued by the Deeds Registry in respect of a subdivision, such subdivision will be excluded from the rebate and will be rateable in terms of the Act.
- f) The owner must be in possession of all planning authorisations (if applicable) for the development.

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

- a) building plans for the proposed development must have been approved. For the purposes of this sub-clause, the term 'building plan' shall mean, where applicable, a building plan approved in terms of Section 4 of the National Building Regulations or an authorisation granted for minor building works in terms of Section 13 of the National Building Regulations.
- b) the development incentive rebate shall be for a defined period;

- c) the Contracting Party shall be under a non-renewable contractual obligation to complete the development within the defined period; and
- d) Subject to annual inflationary linked increases, the rebate shall remain the same, until such time as an occupancy certificate has been issued by the Municipality in terms of Section 14 of the National Building Regulations, as amended or upon expiry of the defined period, whichever is the earlier, as per the agreement between the Municipality and the Contracting Party.
- e) Notwithstanding d) above, in the case of a development with a total investment value of R1 billion or more, where:
 - i) a registrable subdivision is developed, and an occupancy certificate has been issued; or
 - ii) a Certificate of Registered Title has been issued by the Deeds Registry in respect of a subdivision, such subdivision will be excluded from the rebate and will be rateable in terms of the Act.
- f) The owner must be in possession of all planning authorisations (if applicable) for the development.

14.7 A development incentive rebate is:

14.7.1 granted on application only;

14.7.2 for a defined period. The duration period will be based on the following guiding principles:

- (i) equity;
- (ii) affordability;
- (iii) social and economic development;
- (iv) financial sustainability and a balance budget;
- (v) legislative compliance. For example: Section 33 of the MFMA must be complied with if the defined period will impose financial obligations on the Municipality beyond three (3) years covered in the annual budget for that financial year;

- (vi) policy provisions as contained in the Rates Policy, and the Economic Development Incentive Policy.

14.7.3 dealt with on its own merit;

14.7.4 as determined by the Council when approving the Municipality's annual budget; and

14.7.5 subject to the Municipality's annual budget for a particular Municipal Financial Year;

14.7.6 subject to the conclusion of an agreement between the Municipality and the owner of the property;

14.7.7 applied to the category rate randage that is leviable by the Municipality to the development site in question and uses thereon during a particular Municipal Financial Year. No rebate will be granted retrospectively; and

- 14.7.8 ultimately, subject to the provisions of this Policy and the Act.
- 14.8 Where a development is complete and there is subsequent occupation but transfer of ownership has not taken place, the Contracting Party shall be liable for the relevant taxes and any other municipal debt arising out of such occupation including interest charges.
- 14.9 If the Contracting Party receives the development incentive rebate in error, the Municipality reserves the right to reverse the rebate in the manner it deems fit.
- 14.10 The agreement contemplated in Clause 14.4 may, with the prior consent of the Municipality in writing, be ceded to a successor in title of the Contracting Party.
- 14.11 An application for a development incentive rebate under this Clause 14 read with the Municipality's Economic Development Incentive Policy, must be made to the Municipality on or before 31 January in the financial year preceding the start of the new Municipality Financial year. Such date enables the Municipality to make provision for the rebate in its budget processes for the new Municipal Financial year.
- 14.12 In order for an application to be accepted and processed, the municipal accounts of the applicant, must not be in arrears.

Notwithstanding that the Council has granted approval for the development incentive rebate, no contract shall be concluded with the registered owner where the municipal accounts of such registered owner reflect arrears exceeding sixty (60) days, with no dispute having been lodged in terms of the Municipality's Credit Control and Debt Collection Policy.

Since a failure to honour payment obligations to the Municipality constitutes a criminal offence, the signing of an acknowledgement of debt to settle arrears by ways of instalments, does not satisfy the requirement that the registered owner's accounts must be in good standing that should not reflect arrears exceeding sixty (60) days.

15. MULTIPLE ENTRIES IN THE VALUATION ROLL

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

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

16. PAYMENT AND RECOVERY OF RATES

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

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

17. DEFERMENT OF RATES

Unemployed Persons

17.1 The Municipality may on application defer the payment of rates in terms of Section 26(3) of the Act, only in respect of rates payable in respect of residential property, under the following special circumstances. To qualify for deferment of rates, the Applicant:

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

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

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

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

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

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

17.1.7 must reside permanently on the residential property concerned; and

17.1.8 must be the registered owner of the residential property.

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

17.3 Subject to Clause 17.5, a deferment period shall endure for a period of six (6) months, calculated from the date of approval.

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

17.5 Any deferment granted in terms hereof shall terminate immediately—

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

17.5.2 upon the expropriation, transfer or other disposal of the property concerned;

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

17.5.4 if the owner fails by the final date for the payment thereof, to pay rates or any part thereof owing in respect of the property concerned, after allowing for the amount of the deferment;

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

17.5.6 on expiry of the period of deferment.

1 7.6 Deferment of rates payment will not be granted simultaneously with any rates rebate provided in this Policy, i.e. the ratepayer will not enjoy a deferment simultaneously with a rebate.

Point Waterfront

17.7 The Council may, when approving the annual budget, grant to the Durban Point Development Company Pty Ltd (in which the Municipality holds a 50% shareholding interest) a deferment of its obligation to pay rates on rateable properties that are still held in its ownership and are located within Special Zone 91 - Point Waterfront.

18. SUPPLEMENTARY VALUATIONS

18.1 The Municipality shall from time to time value new properties and revalue existing properties, and such new valuations shall be reflected in a supplementary valuation roll, and the rates levied on a property listed in the supplementary valuation roll will become payable as determined in Section 78 of the Act.

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

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

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

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

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

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

18.3.5 any other factors which the CFO deems relevant.

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

19. GENERAL

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

19.2 The Municipality values property in accordance with International Valuation Standards as determined by the International Valuations Standards Council, and the provisions of the Act.

19.3 In the case of mass appraisal of any category of rateable property, the Municipality is guided by the Standard on Mass Appraisal of Real Property compiled and updated from time to time, by the International Association of Assessing Officers. If any portion of these standards is found to be in conflict with the Act, the Act will prevail.

19.4 In order to facilitate identification of different uses of property, the Municipality ascribes generalised functional names to different property use groups and assigns a use code to such property use groups. Such information is reflected on the Valuation Roll.

20. POLICY EVALUATION AND REVIEW

This is the 14th review of the original rates policy adopted by the Council in 2008 in compliance with the Act.

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

THIS POLICY AND PRESCRIBED FORMS ARE AVAILABLE AT CUSTOMER SERVICE CENTRES, SIZAKALA CENTRE OFFICES, THE CITY HALL, DURBAN AND ON THE ETHEKWINI MUNICIPALITY WEBSITE www.durban.gov.za

ANNEXURE A

Rate Code	RATING CATEGORY
1	Residential property
2	Agricultural property
3	Vacant Land
4	Industrial Property
5	Business and Commercial Property
8	Public Service Infrastructure properties
32	Property owned by public benefit organisations and used for specific public benefit activities
22	Unauthorised or Illegal development or use, and Abandoned Property or Building
31	property owned by an organ of state and used for public service purpose
29	Mining Property
30	Sectional Title Registered Real rights of extension