

NYANDENI MUNICIPALITY RATES DRAFT BY LAW

INTRODUCTION:

The municipality needs a reliable source of revenue to provide basic services and perform its functions. Property Rates remain a major source of income to the municipality. The revenue from rates is used to finance services that benefit the community as a whole as opposed to individual households. These include installing and maintaining streets, roads, lights, storm water drainage, developing and operating parks, recreational facilities and cemeteries. It also provides funds for municipal administration.

To ensure that property rating in Nyandeni Municipality is carried out in a fair, consistent, considerate and controlled manner, this rate policy is developed in accordance with the provisions of the Local Government: Municipal Property Rates Act, (Act 6 of 2004).

INTERPRETATIONS:

DEFINITIONS:

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

“Agricultural Purposes” in relation to the use of a property, excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game;

“Business” means the activity of buying, selling or trade in goods or services and includes any office or other accommodation on the same erf, the use of which is incidental to such business, with exclusion of the business of mining, agriculture, farming, or inter alia, any other business consisting of cultivation of soils, the gathering in of crops or the rearing of livestock or consisting of the propagation and harvesting of fish or other aquatic organism.

“Industrial” means a branch of trade or manufacturing, production assembling or processing of finished or partially finished products from raw materials or fabricated part, on so large scale that capital and labour are significantly involved.

“Residential” means a suite of rooms which forms a living unit that is exclusively used for human habitation purposes, or a multiple number of such units on a property, excluding a hotel, commune, boarding and under taking, hostels and place of instruction.

“State-owned properties” means properties owned by the State, which are not included in the definition of public service infrastructure in the Act. These state-owned properties are classified as follows:

- (a) State properties that provide local services.
- (b) State properties that provide regional/municipal district-wide/metro-wide services.
- (c) State properties that provide provincial/national services.

“Vacant land” means a land where no immovable improvements have been erected.

PROPERTIES TO BE VALUED:

All properties shall be valued except those described in section 7(2) (a) (iii) and (iv) of Act 6 of 2004.

Section 7(2) (a) (iii) refers to a right registered against property in the name of a person excluding mortgage bond registered against the property and

Section 7 (2) (a) (iv) refers to properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racially discriminatory laws of practices. This shall include all homestead located on communal land.

PROPERTIES TO BE RATED:

All properties contained in the valuation roll shall constitute the subject of rating subject to the provisions of section 17 (1) of the Municipal Property Rates Act. In terms of the sub section described supra, the following exclusions are provided:

OTHER IMPERMISSIBLE RATES:

17. (1) A municipality may not levy a rate-
- (a) on the first 30% of the market value of public service infrastructure;
 - (b) on any part of the seashore as defined in the Seashore Act, 1935 (Act No. 21 of 1935);
 - (c) on any part of the territorial waters of the Republic as determined in terms of the Maritime Zones Act, 1994 (Act No. 15 of 1994);
 - (d) on any islands of which the state is the owner, including the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948)
 - (e) on those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004, which are not developed or used for commercial, business, agricultural or residential purposes;
 - (f) on mineral rights within the meaning of paragraph (h) of the definition of "property" in section 1;
 - (g) on a property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapse ten years from the date on which such beneficiary's title was registered in the office of the Registrar of Deeds;
 - (h) on the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality to a category determined by the municipality-
 - (i) for residential properties; or
 - (ii) for properties used for multiple purposes, provided one or more companies of the property are used for residential purpose; or
 - (i) on a property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship.
2. (a) The exclusion from rates of a property referred to in subsection (1) (e) lapses if the declaration of that property as a special nature reserve, national park, nature garden, is withdrawn in terms of the applicable Act mentioned in that subsection.

(b) If the property in respect of which the declaration is withdrawn is privately owned, the owner, upon withdrawal of the declaration, becomes liable to the municipality concerned for any rates that, had it not been for subsection (1) (e), would have been payable on the property during the period commencing from the effective date of the current valuation roll of the municipality. If the property was declared as a protected area after the effective date of the current valuation roll, rates are payable only from the date of declaration of the property.

©The amount for which an owner becomes liable in terms of paragraph (h) must be regarded as rates in arrears, and the applicable interest on that amount is payable to the municipality.

(d) Paragraphs (b) and (c) apply only if the declaration of the property was withdrawn because of –

 - (i) a decision by the private owner for any reason to withdrawn from the agreement concluded between the private owner and the state in terms of the Protected Areas Act, and in terms of which the private owner initially consented to the property being declared as a protected area; or
 - (ii) a decision by the state to withdrawn from such agreement because of a breach of the agreement by the private owner.
 3. The Minister, acting with the concurrence of the Minister of Finance, may from time to time by notice in the Gazette, increase the monetary threshold referred to in subsection (1)(h) to reflect inflation.
 4. The Minister may, by notice in the Gazette, lower the percentage referred to in subsection (1)(a), but only after consultation with-
 - (a) relevant Cabinet members responsible for the various aspects of public service infrastructure;
 - (b) organized local government; and
 - (c) relevant public service infrastructure entities.
 5. (a) The exclusion from rates of a property referred to in subsection (1)(i) lapses if the property-
 - (i) disposed of by the religious community owning it; or
 - (ii) is no longer used primarily as a place of public worship by a religious community or, in the case of an official residence contemplated in that subsection, is no longer used as such as official residence.

(b) If the exclusion from rates of a property used as such an official lapses, the religious community owning the property becomes liable to the municipality concerned for any rates that, had it not been

for subsection (1)(i), would have been payable on the property during the period of one year preceding the date on which the exclusion lapsed.
© The amount for which the religious community becomes liable in terms of paragraph (b) must be regarded as rates in arrears, and the applicable interest on that amount is payable to the municipality.

WITHDRAWAL OF EXCLUSIONS:

Where a property owned by a religious body ceased to be used as a place of worship or as an accommodation used by a full time employee of the religious organization, such a property shall be deemed as a rateable property from the date it ceased to be used as a place of worship or as a residence of a full time employee.

Where a portion of a property owned and utilized by a religious body is leased, rate shall be payable on pro rata basis.

Properties excluded from rating on the basis that they are nature conservation areas or botanical gardens shall be rated effective from the date of deproclamation.

THE GUIDING PRINCIPLES:

The policy has been developed on the basis of two principles namely, Equity and Affordability.

EQUITY:

All Rate Payers with similar properties shall be treated in a similar way.

AFFORDABILITY:

The ability of a person to pay rates shall be taken into consideration. Consequently, Municipality shall provide relief in the form of Reduction, Rebate and Exemptions.

DIFFERENT CATEGORY OF PROPERTY:

For the purpose of administering property rating within the local authority area, the municipality shall categorize property by their use. In this regard, property is categorized as Special Residential, General Residential, Agricultural land for Farming, Agricultural land for Trading, Agricultural land for Eco-Tourism, Industrial, Commercial, Business and Government. Vacant land shall be categorized on the basis of their zoning.

Where a residential property is used for any purpose other than private resident, it shall be considered as belonging to the category of use.

GOVERNMENT:

Government properties are further divided into those for local use, District/Regional use and National use.

DIFFERENTIAL RATING:

Different rates shall be applied to different category of property. The choice of rate shall take into consideration socio economic objectives of the municipality. Rates shall be charged at the following ratios.

| | | |
|--|-----|------|
| Special Residential | | 1 |
| General Residential | | 1.3 |
| Industrial | | 1.2 |
| Agricultural land for Farming | | 1.0 |
| Agricultural land for Eco-Tourism | 1.3 | |
| Agricultural land for Trading | | 1.3 |
| Business | | 1.5 |
| Government property used by local people only | 1.5 | |
| Government property serving communities in 1.6 Nyandeni and neighboring municipalities | | |
| Government properties that serves national interest | 1.8 | |
| Public Service Infrastructure | | 0.25 |

MULTIPLE USE PROPERTIES:

Properties used for multiple purposes shall be rated on the basis of their dominant use.

PAYMENT OF RATES:

Rate shall be payable on all property at the applicable rates based on the values reflected in the valuation roll except where the municipality grants reduction, rebate or exemption.

GRANTING RELIEF FROM THE PAYMENT OF RATES:

Relief shall be granted on the basis of reduction, rebate and exemption.

REDUCTION:

Reduction shall be granted only in the event of a natural disaster resulting in total or partial destruction of the property. The municipality shall on receipt of application from the affected Ratepayer, grant a reduction on the value of the property.

The reduction granted shall be a proportion of the value of the property equivalent to the ratio of the damage to the total value of the property. Such a relief shall be granted for the unexpired term of the financial year.

The property shall immediately be placed on the list for the next additional valuation. The valuation shall be carried out if even the property is repaired.

REBATES:

Rebate shall be granted to the indigent and the unemployed. Where a person is declared as an indigent in terms of the indigent policy, the person shall on application to the council, be granted a rebate on a sliding scale. The Scale shall be as follows:

INCOME

REBATE

Government shall be granted a rebate of 20% on all government properties.

Rebate shall be granted to all properties not enjoying all municipal services as indicated below:

| | |
|----------------|-------|
| Refuse removal | 7.5 % |
| Water | 7.5 % |
| Electricity | 7.5 % |
| Street | 7.5 % |

Where the facility is available but has not been connected by the Ratepayer, the facility shall be deemed to be on the property.

Where as a result of a natural disaster the infrastructure of the area is damaged, council may grant rebate to the property owner equivalent to the rebate granted for the non existence of such a service.

Public benefit organizations operating from the municipality for the benefit of people in other municipal areas shall be granted rebate on a sliding scale. The size of rebate shall be determined by the extent to which people in the municipal area benefits from their operations vis-à-vis service to other areas.,

EXEMPTION:

A person registered as an indigent by the municipality shall be exempted from payment of rates. Properties owned by community benefit organizations located in the municipality for the benefit of people in the municipality only shall be granted exemption.

PAYMENT OF FLAT RATE:

Owners of low cost houses may be levied a flat amount, which amount shall not exceed the amount they would have been paid after the R15 000 exclusion if a flat rate has not been applied.

Notwithstanding the above, any low cost houses leased or improved shall be excluded from the flat rate and be treated as if it is not a low cost property.

PERIOD OF RATE:

Rate shall be imposed on annual basis and it shall be from 1st July to 30th June of the following year.

RATES:

Rate shall be an amount of cents in a rand. A rate is levied by municipality by resolution passed by the Municipal Council with a supporting vote of a majority of its members.

PUBLICATION OF RESOLUTION:

The Municipality shall publish the rate tariff in the provincial gazette. Whenever council passes resolution with regard to rate tariff, the Municipal Manager shall without delay conspicuously display copies of the resolution for a period of 30 days at the Municipalities head and satellite offices and libraries. Municipality shall publish in a newspaper circulating in the municipal area stating that:

- (i) a resolution levying rate on property has been passed by the council and
- (ii) the resolution is available at the municipality head and satellite offices and libraries for public inspection during official hours.
- (iii) Municipality shall place a copy of resolution on the official website.

SPECIAL RATING AREA:

Municipality may from time to time create special rating areas to raise funds to address infrastructure needs. Before declaring any part of the municipality as a special rating area for the purpose of levying additional rates, the municipality shall consult the local community and agree on the boundary delimiting the special rating area and the improvement or service to be provided.

The municipality shall during consultation, obtain the consent of majority of the members of the local community in the proposed special rating area. The municipality shall keep separate accounting records on funds raised through additional rating.

The municipality may establish a committee made up of representatives of the affected community to form consultative body to assist the municipality in implementing the improvement programme.

Rates may be recovered from Tenants or Agents in terms of section 28 and 29 of the Municipal Property Rates Act.
OR

Municipality may exercise the option of attaching properties of defaulting property owners after due legal processes.