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# OUDTSHOORN MUNICIPALITY

## CREDIT CONTROL DEBT COLLECTION BY-LAW

**Council Resolution No: 60.7/05/16**

**Date: 26 May 2016**

**DRAFT CREDIT CONTROL AND DEBT COLLECTION BY-LAW FOR OUDTSHOORN  
MUNICIPALITY FOR OUDTSHOORN MUNICIPALITY**

**PREAMBLE**

In an attempt to ensure that the communities residing within the Oudtshoorn Municipal area of jurisdiction pay for services rendered by the municipality, the Oudtshoorn Municipality hereby approves the Credit Control and Debt Collection *By-Law*, in order to ensure that all communities pay for basic services that are provided by the municipality, as required by the Municipal Systems Act No. 32 of 2000 and other government regulations, and also to ensure that the levels of non-payment for municipal services are minimized. Payment for services rendered by the municipality will enable the municipality to provide services as planned in its annual Budget and the annual Integrated Development Plan (IDP).

**DEFINITION OF KEY WORDS**

In this policy the following words shall have the meanings assigned as follows: -

“**Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003),

“**Accounting Officer**” refers to the Municipal Manager of the municipality,

“**By-law**” refers to the legislation passed by the council of a municipality binding in the municipality on the persons to whom it applies,

“**Chief Financial Officer**” refers to the head of the Budget and Treasury Business Unit,

“**Finance Department**” refers to the municipal department dealing with the financial affairs of the municipality,

“**Finance and Service Delivery Committee**” refers to the committee of council dealing with the financial affairs of the municipality,

“**Indigent Households**” These are households or ratepayers that fall within the qualifying criteria of being declared a poor household and qualify for financial assistance through the Indigent Policy.

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## 1. LEGAL COMPLIANCE

In terms of the Constitution of the Republic of South Africa, everybody has the right to access to certain municipal services. A local authority can therefore not refuse a person his or her constitutional right on the basis that he/she constitutes an unacceptably high credit risk. It is in any event, not in the spirit of the developmental local government in South Africa to exclude people from basic services, especially those residents in the long neglected communities. However, it is in nobody's interest that these basic rights be abused (for example, by not paying or by abusing usage). A national disaster could follow in the wake of a general collapse in local government. The right of access to basic services should be protected but, on the other hand, local government should be given protection against abuse and "misconduct".

The Constitution states in section 152 (1) (b) that local government must strive within its financial and administrative capacity, to ensure the provision of services to communities in a sustainable manner. Services should be rendered within the following eight principles, as outlined in the White Paper on Transforming Public Services (**Batho Pele Principles**):

- ✓ Consultation with community;
- ✓ Agreement on service standards;
- ✓ Equal access to services;
- ✓ Courtesy in rendering of services;
- ✓ Provision of information to all;
- ✓ Openness and transparency regarding cost of services;
- ✓ Communities' right to redress; and
- ✓ Value for money.

The above could only be realised if local government obtains sufficient revenue to fund its activities and tasks in order to provide services. Presently, local revenue comes from two sources, namely:

- ✓ Own generation through taxes, levies and tariffs.
- ✓ An equitable share of revenue raised nationally in terms of section 214 and 227 (1)(a) and (b) of the Constitution.

Section 227 (2), of the Constitution also states that additional revenue raised by the municipalities may not be deducted from their equitable share of revenue raised nationally or from any other allocations made to them out of national government revenue. Equally, there is no obligation on the national government to compensate municipalities that do not raise revenue commensurate with their fiscal capacity and tax base. The National Credit Control Guidelines issued by the Department of Constitutional Development on 13 March 1998, expresses the following concerns:

- ✓ Tariffs in many cases are not cost reflective, and therefore the true potential debtors is substantially reduced;
- ✓ Extending service delivery to the low income communities in the form of basic services, without an accompanying improvement in economic circumstances, will increase the negative result;
- ✓ In many cases, amalgamation has placed immense pressure on municipal administrative structures. Adjustments to accommodate the changed circumstances may be lagging in favour of showing progress with service delivery;
- ✓ Lenient approaches to debtors, in terms of extended payment periods, is contributing to the debtor's accumulation of debt and is not producing any improvement to the situation on the ground or to substantial cash inflows.

Chapter 9 of the Municipal Systems Act (MSA) No. 32 of 2000 deals with the subject of “Credit Control and Debt Collection” by municipalities in the Republic of South Africa, and states inter-alia the following: -

Section 95 of the MSA obliges the municipalities to establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality,

Section 96 of the MSA provides that a municipality must collect all monies due and payable to it, and for this purpose, must adopt, maintain and implement a credit control and debt collection policy which is consistent to its rates and tariffs policy,

Section 97 of the MSA provides that the credit control and debt collection policy of the municipality must provide for credit control and debt collection procedures and mechanisms as well as provision for indigent debtors that is consistent with its policies on indigent households and any national policies or government regulations on indigent households.

Section 97(1) of the MSA requires that the credit control and debt collection policy of the municipality to provide for the following: -

- (i) Credit control procedures and mechanisms,
- (ii) Debt collection procedures and mechanisms,
- (iii) Provision for indigent debtors that is consistent to its indigent policy, and any other government regulations relating to indigent households,
- (iv) Realistic targets consistent with (a) General Recognised Accounting Practices and collection ratios, and (b) the estimates of income as set in the budget less an acceptable provision for bad debts.
- (v) Interest on arrears, where appropriate,
- (vi) Extension of time for payment of accounts,
- (vii) Termination of services or the restriction of the provision of services when payments are in arrears,
- (viii) Matters relating to unauthorised consumption of services, theft and damages, and
- (ix) Any other matters that may be prescribed by regulation in terms of Section 104.

Section 97(2) of the MSA further states that the municipality’s credit control and debt collection policy may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.

Section 99 of the MSA places the legal responsibility on the executive mayor or executive committee, of monitoring and supervising the application of the credit control and debt collection policy, and of reporting to council on the extent and success of credit control actions.

Section 99 of the MSA assigns the legal responsibility for implementing the credit control and debt collection policy and by-laws to the municipal manager.

## **2. SCOPE OF THE BY-LAW**

This By-Law applies to the Oudtshoorn Municipality's area of jurisdiction, and is only applicable to the ratepayers of Oudtshoorn Municipal area, who are excluded from the assistance Indigent Policy of the municipality, as determined or revised from time to time by Council.

## **3. OBJECTIVES OF THE BY-LAW**

The objectives of the Credit Control and Debt Collection By-Law of the Oudtshoorn Municipality are as follows: -

- (i) Ensuring that households pay for the basic services that they are afforded by the municipality,
- (ii) Ensuring that the municipality is able to provide services as approved in its annual budget or its annual Integrated Development Program (IDP), and
- (iii) Ensuring that the non-payment of services is minimised.

## **4. DEFINITION OF CREDIT CONTROL**

Credit control is the process utilised by a municipality to ensure collection of revenue from rates, fees levied and for services rendered and entails in the main, metering/measurement, billing/invoicing and debt collection.

## **5. CREDIT CONTROL PRINCIPLES**

The following principles are to be considered:

- ✓ Enforcement is a local matter subject only to relevant legislation;
- ✓ The municipal manager who is entrusted with the determination and execution of credit control measures must report to the municipal council;
- ✓ Enforcement and policy-making must be independent to ensure accountability;
- ✓ Credit control must be understandable, uniform, fair and consistently applied;
- ✓ Credit control must be effective, efficient and economical;
- ✓ The credit control measures employed must be sustainable in the long term; and
- ✓ A proper indigent policy must be in place to ensure that the circumstances of the poor are accommodated.

## **6. ELEMENTS OF CREDIT CONTROL**

### **6.1 Metering/Measurement**

Service metering or measurement is the determination of the amount of service rendered to each customer in each category. This may vary from flat rates, such as refuse removal, to metered consumption of water and electricity, to deemed consumption such as sewerage disposal.

### **6.2 Billing / Invoicing**

Billing refers to the process of preparing and presenting a claim or invoice to each consumer, which is based on the quantity of service, which is consumed by, and delivered to the consumer in a specified time.

### 6.3 Arrear Collection

Arrear collection, commonly known as credit control in local government, refers to the process of recovery of outstanding amounts from customers by taking the necessary steps and actions which include among others, interruption of services, litigation and attachment of assets.

## 7. CONTRACT OF AGREEMENT FOR THE SUPPLY OF SERVICES

Before being supplied with a service, a consumer must enter into a contract of agreement. The contract must stipulate and be accompanied by a deposit as determined by Council from time to time (**on a financial year basis**). Consumers shall not be entitled to interest on deposits lodged with the municipality. Upon termination of the consumer agreement with the municipality, the deposit shall first be offset against any outstanding balances and the remaining balance of the deposit (if any), refunded to the consumer. No tenants are allowed to enter an agreement with the municipality, and all services will be for the account of the owner.

## 8. RENDERING OF ACCOUNTS

The municipality shall render a regular account for the amount owing by a debtor for rates, fees and service charges but failure by the municipality to render such accounts shall not absolve the debtor of his obligation to pay for rates, fees and/or services received.

Accounts must show the following:

- ✓ If measured, details of consumption for the period being charged and the amount due;
- ✓ If flat rate, the amount due in terms of services rendered;
- ✓ The amount due for other services rendered;
- ✓ Other amounts due;
- ✓ The amount due for property tax;
- ✓ The final date for payment of amount due, which shall be on or before the 10<sup>th</sup> of each month from date of invoice.

## 9. CREDIT CONTROL PROCEDURE

If payment for the amount due is not received by the municipality by the due date, then the following procedure shall be instituted:

- ✓ Immediately after due date, disconnect and/or restrict all water and/or electricity services for all overdue amounts relating to rates, service charges or any charges for services rendered by the municipality in terms of the procedures laid down in Section 7.5 of the Credit Control Debt Collection Policy;
- ✓ Reconnection fee applicable in case of disconnection of service;
- ✓ In the event of disconnection, the review of amount of deposit at the discretion of the Chief Financial Officer.
- ✓ Should payment still not be received after "cut-off", relevant municipal official shall visit the premises to ensure that unauthorised consumption is not taking place;
- ✓ At this stage, the procedure for collection of arrears shall be instituted against the debtor.

## 10. PROCEDURES FOR COLLECTION OF ARREARS

Arrangement for payment of arrears should be made as follows but only after an Acknowledgement of Debt (the Agreement), has been signed by the debtor who should provide positive proof of identity or an authorised agent with a Power of Attorney. The agreement must be completed entailing details of all arrangements for paying off arrear account (**as detailed hereunder**). A copy of the agreement must be handed to the client and a copy filed in the debtor's file.

**For consumers earning between R0 – R3 300,00 per month or less, the following is to apply:** - (Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum amount equal to 10% of their arrears with the remaining 80% to be settled in 36 equal instalments commencing from the month following the month in which the initial 10% payment was made. The reconnection fee is also to be paid over and above the 10% payment in order for the service to be reinstated.

**For consumers earning between R3 301,00 – R7 500,00 per month or less, the following is to apply:** - (Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum payment equal to 25% of their arrears with the remaining 75% to be settled in 24 equal monthly instalments commencing from the month following the month in which the initial 75% payment was made. The reconnection fee is also to be paid over and above the 75% payment in order for the service to be reinstated.

**For consumers earning between R7 501,00 – R10 501,00 per month or less, the following is to apply:** - (Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum amount equal to 40% of their arrears with the remaining 60% to be settled in 12 equal monthly instalments commencing from the month following the month in which the initial 40% payment was made. The reconnection fee is also to be paid over and above the 40% payment in order for the service to be reinstated.

**For consumers earning between R10 501,00 – R17 501,00 per month or less, the following is to apply:** - (Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum amount equal to 50% of their arrears with the remaining 50% to be settled in 12 equal monthly instalments commencing from the month following the month in which the initial 50% payment was made. The reconnection fee is also to be paid over and above the 50% payment in order for the service to be reinstated.

**For consumers earning R17 501,00 per month and above, the following is to apply:** - (Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum amount equal to 60% of their arrears with the remaining 40% to be settled in 12 equal monthly instalments commencing from the month following the month in which the initial 40% payment was made. The reconnection fee is also to be paid over and above the 40% payment in order for the service to be reinstated.

**For business consumers the following is to apply:**

- ✓ Consumers in arrears for 2 months and more must pay a minimum amount equal to 50% of their arrears with the remaining 50% to be settled in 6 equal monthly instalments commencing from the month following the month in which the initial 50% payment was made. The reconnection fee is also to be paid over and above the 50% payment in order for the service to be reinstated.

10.1 If a consumer fails to comply with any arrangement, the services will once again be discontinued/restricted and the total arrears due will have to be paid prior to having the services restored. A consumer who fails to comply with any arrangement is automatically excluded from the right to be considered for a further arrangement for a period of twelve months.

10.2 If a consumer fails to comply with any arrangement, such a consumer will also be put on the auxiliary system, whereby the municipality use the prepaid electricity system to recover its outstanding debt from a consumer from time to time.

10.3 All arrangements will automatically include the condition that any future monthly accounts plus interest levied are paid by the standard due date.

10.4 All arrangements are to be entered into and signed by the consumer on a prescribed form designed by the Finance Directorate. No telephonic or verbal arrangements will be allowed.

10.5 No cheques are allowed as a means of a payment instrument.

10.6 The first payment (initial payment) to be made after the signing of the agreement shall be made within 30 days. Agreement will lapse if initial payment is not received within 30 days. The Chief Financial Officer is allowed to apply his / her mind in cases of debtors who cannot afford making these arrangements, due to their financial reasons.

**11. RIGHT OF ACCESS**

Municipal officials have the legal right of access to any property occupied by a consumer for the purposes of reading, inspecting meters, connections or to disconnect/ discontinue or restrict supply of service and for the evaluation of the property.

**12. RIGHT OF APPEAL**

An appeal must be submitted in writing to the Municipal Manager prior to the final due date for payment of the contested amount, and must contain details of the specific items on the account which are the subject of appeal, with full reasons. The debtor's obligation to pay that portion of the total amount due represented by the items appealed against. If found that the appeal is successful the debtors account will be rectified accordingly.

Whilst the appeal of the debtor is being dealt with, any further amounts accruing for services rendered to the debtor, shall be payable on due date. If the appeal is in respect of a metered consumption amount, the meter must be tested within 14 days of lodgement of appeal, or as soon as possible thereafter, in order to establish the accuracy. The debtor must be informed in writing of the results of the test of the meter, and of any adjustment to the amount due by him as a result of the meter having been found NOT to be faulty together with the cost of testing the meter. If the meter is found to be faulty, the municipality shall make the necessary adjustments to the debtors account based on the average usage for the past six months prior to the malfunctioning of the meter and shall bear the cost incurred in having the meter tested. If no error is found with the meter, the debtor will be liable for the cost of testing the meter.

### **13. STEPS TO BE TAKEN BEFORE EFFECTING DISCONNECTIONS**

The municipality should as far as is practically possible, ensure that the following steps are in place before effecting disconnections:

- ✓ Reputable and efficient billing distribution systems to ensure that all consumers receive their monthly accounts is available;
- ✓ Sufficient pay points exist;
- ✓ Councillors should consult widely with their constituencies in order to encourage them to pay for services provided;
- ✓ Restriction of services and/or termination should be done within the ambit of the relevant legislation.

### **14. COMMENCEMENTS AND OR RESUMPTION OF SERVICES**

The underlying principle in the provision of services by the municipality is that the service is provided to a property. Any changes in ownership shall not compromise the municipality's right to demand payment for outstanding amounts due for services rendered before a new connection or a reconnection is made in terms of the following clauses.

#### **14.1 New Service Connections**

Connections and supply of a new service shall only be effected after all charges in respect of deposits and connection fees, and any arrears that may have accrued for services rendered to the property by the municipality, have been paid. No tenants will be allowed to connect services in their respective names, and all services is for the account of the owner.

#### **14.2 Resumption of discontinued services**

If the debtor has:

- ✓ Paid the full amount outstanding, or
- ✓ Made a suitable arrangement with the Chief Financial Officer or his delegate for the payment of the amount in arrears, then the service will be resumed, subject to clause 10 of this policy.

### **15. UNAUTHORISED CONSUMPTION, THEFT, OR WILFULL DAMAGE TO MUNICIPAL PROPERTY**

The following shall constitute UNAUTHORISED consumption, theft or damage:

- ✓ Any connection to, or consumption from, an electricity line that has not been provided to the consumer by the Council;
- ✓ Any consumption of water from, or connected to, a municipal pipeline that has not been provided to the consumer by the Council;
- ✓ Any damage to, or adjustment of any metering instrument which may result in inaccurate data being obtained by the Council or which may lead to a reduced charge being payable by the consumer;
- ✓ Any removal of any metering instrumentation by any person other than a municipal officer or authorised agent;
- ✓ Any tampering with or wilful or malicious damage to any component or any reticulation or metering system as installed by Council.

Where any such illegal activity is detected, the municipal supply shall be immediately suspended. The debtor shall be held responsible for payment of all deemed or calculated consumption on the basis determined by Council as well as for penalties determined by Council from time to time. Such

penalties shall be in addition to any penalties imposed by a court of law arising from criminal prosecution for offences committed. For the purposes of this by-law, the penalties as stipulated by the Council, from financial year to financial year, shall apply. The municipality shall have the right to review these penalties at its discretion.

## **16. DISCONTINUATION OF SERVICES**

- ✓ Debtors who have ceased to make use of municipal services and still have an outstanding amount owing to the municipality, are classified as inactive debtors;
- ✓ Immediate steps shall be taken to recover outstanding amounts to ensure that debt does not become irrecoverable;
- ✓ Upon discontinuation of service, the deposit held shall be appropriated to off-set outstanding amounts owing and if insufficient to cover debt, a letter of demand shall be written to the debtor demanding payment within 14 days for the balance owing;
- ✓ If no payment is received within the 14-day period, legal action shall be instituted.
- ✓ The municipality will exercise its rights, in terms of its Credit Control Debt Collection Policy, to disconnect supply (e.g. electricity) or restrict services (e.g. water), in cases of debtors who fail to respond to the reminders forwarded to them. This paragraph must be read in conjunction with the Credit Control and Debt Collection Policy.

## **17. RESPONSIBILITY FOR CREDIT CONTROL**

In terms of Chapter 6, section 29 (d) (1) of the Municipal Finance Management Act No: 56 of 2003, the Municipal Manager must take effective and appropriate steps to collect all moneys due to the municipality.

## **18. FINANCIAL IMPLICATIONS**

Implementation of the credit control debt collection policy has to be funded from the operating budget of a municipality. If this has an incremental impact on the budget, it must be offset by the improved cash flow as a result of an efficient collection system.

## **19. PERSONNEL IMPLICATIONS**

Where a credit control debt collection function does not exist in a municipality, the responsibility for the function rests with the Chief Financial Officer who must ensure that the function is properly delegated to a responsible official.

## **20. ARREAR ACCOUNTS FOR MUNICIPAL EMPLOYEES AND COUNCILLORS**

The code of conduct in the Municipal Systems Act No. 32 of 2000, for municipal employees and councillors requires municipal employees and councillors not to have arrear municipal accounts for a period in excess of 90 days. The Municipal Manager is permitted to deduct such arrears, without any warning from the affected party. Also, Section 124(b) of the Municipal Finance Management Act No. 56 of 2003 requires the municipality to disclose in the financial statements councillors whose accounts were in arrears for a period in excess of 90 days, during the financial year under review.

## **21. INDIGENT CONSUMERS**

Indigent consumers are defined as total household's income that earns R 3300 per month or less. The municipality must handle indigent consumers in terms of its Indigent Policy.

## 22. POLITICAL SUPPORT

It is clear that without good administrative processes, good communication and an earnest attempt to change the culture of non-payment and very importantly, total “buy in” from all politicians, no credit control policy will be effective.

## 23. CONTROL / WORKING DOCUMENTS

The following forms, letters or documents is the working documents

- ✓ Application/Agreement for Supply of Services Form;
- ✓ Indigent Support Application Form;
- ✓ Application for Termination of Services Form;
- ✓ Tariff List (penalties, service deposits, connection fee, reconnection fee, etc.)
- ✓ Register to record “Arrangements for Payment”.

## 24. HOW WILL THIS BY-LAW BE SUCCESSFULLY COMMUNICATED?

The success of this By-Law will depend on various key stakeholders that exist within the Oudtshoorn Municipal area of jurisdiction, including the following:

- ✓ Political Leadership (e.g. Executive Mayor, Councillors and Ward Committee Members),
- ✓ Administrative Leadership (e.g. Municipal Manager and Directors of various Directorates or Business Units),
- ✓ All Employees of Council have the responsibility of being the mouthpiece of the municipality or their employer, in as far as informing the members of the public about their benefits resulting from this by-law
- ✓ Lastly, this By-Law must be communicated to the communities residing in Oudtshoorn Municipal area of jurisdiction through community newspapers, notices in the notice boards, municipal websites, municipal accounts, booklets, and any other means of communication deemed to be effective.

## 25. REVISION OF THE CREDIT CONTROL DEBT COLLECTION BY-LAW

This By-Law will be reviewed annually, and such must firstly be submitted to the Finance and Service Delivery Committee by the Chief Financial Officer, as well as the Mayoral Committee, and be finally endorsed by the Municipal Council before it can be implemented. This By-Law supersedes any other one adopted by Council previously, including any other resolutions taken.

*“Working together in good governance”*

**MR A PAULSE**  
**ACTING MUNICIPAL MANAGER**  
*Date published: 2016-06-17&18*

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# OUDTSHOORN MUNICIPALITY

## PROPERTY RATES POLICY

**Council Resolution No: 60.7/05/16**

**Date: 26 May 2016**

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## 1. LEGISLATIVE CONTEXT

- 1.1 This Policy is mandated by Section 3 of the Local Government: Municipal Property Rates Act, 2004 (No.6 of 2004), which specifically provides that a Municipality must adopt a Rates Policy.
- 1.2. In terms section 5(1) of the act supra the municipality must annually during its budget process review its Rates Policy and if necessary amend the policy .The amended policy must accompany the annual budget when it is tabled and follow a process of community participation through the budget process.
- Now therefore the following amended Rates Policy is tabled for adoption by Council and community comments.
- 1.2 In terms of Section 229 of the Constitution of the Republic of South Africa, 1996 (No.108 of 1996), a Municipality may impose rates on property.
- 1.3 In terms of the Local Government: Municipal Property Rates Act, 2004 (No.6 of 2004) a municipality in accordance with –
- (a) Section 2(1), may levy a rate on property in its area; and
  - (b) Section 2(3), must exercise its power to levy a rate on property subject to-
    - i Section 229 and any other applicable provisions of the Constitution;
    - ii The provisions of the Property Rates Act ; and
    - iii The rates policy
- 1.4 In term of Section 4 (1) (c) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing, *inter alia*. Rates on property.
- 1.5 In terms of Section 62(1)(f)(ii) of Local Government: Municipal Finance Management Act, 2003 (No. 6 of 2003) the municipal manager must ensure that the municipality has implement a rates policy.

## 2. OBJECTIVES:

In developing and adopting this rates policy, the council has sought to give effect to the sentiments expressed in the preamble of the Property Rates Act, namely that:

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

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

Revenues derived from property rates represent a critical source of income for municipalities to achieve their constitutional objectives, especially in areas neglected in the past because of racially discriminatory legislation and practices; and;

It is essential that municipalities exercise their power to impose rates within a statutory framework which enhances certainty, uniformity and simplicity across the nation, and which takes account of historical imbalances and the burden of rates on the poor.

In applying its rates policy, the council shall adhere to all the requirements of the Property Rates Act no. 6 of 2004 and amendment act no. 29 of 2014 including any regulations promulgated in terms of the said Act.

The objectives of this policy are also to ensure that-

- ✓ All ratepayers within a specific category are treated equal and reasonable;
- ✓ All rates levied are affordable. In dealing with the poor/indigent ratepayers the municipality will provide relief measures through exemptions, reductions or rebates.
- ✓ Rates are levied in accordance with the market value of the property as determined through a valuation.
- ✓ The rate will be based on the value of all rateable property in that category and the amount required by the municipality to balance the operational budget, taking into account the surplus obtained from the trading- and reductions and rebates that the municipality may approve from time to time;
- ✓ Income derived from rates will be used to finance community- and subsidized services;
- ✓ To optimally safeguard the income base of the municipality through exemptions, reductions and rebates that are reasonable and affordable taking into account the poor/indigent ratepayers;
- ✓ In order to minimize major shocks to certain ratepayers the market values in the new valuation roll or tariffs determined by Council may be phased-in over the entire periods as stipulated in the Rates Act. to adhere to the legal requirements of the Property Rates Act (Act 6/2004) and amendment Act, Act no. 29 of 2014

### 3 DEFINITIONS

- 3.1 **“Act”** means the Local Government: Municipal Property Rates Act, 2004 (Act No.6 of 2004 and amendment act no. 29 of 2014)
- 3.2 **“accommodation establishment”** means a facility that provides for lettable residential accommodation on a regular and continuous basis in addition to its permitted use and includes “guesthouses”, “bed & Breakfast” and “Self-catering” establishments
- 3.3 **“Agricultural Purposes”** means a property that is used primarily for agricultural purposes, excludes any portion thereof that is used commercially for the hospitality of guests, and excludes the use of the property for the purpose of eco-tourism or for the trading in or hunting of game.
- 3.4 **“Bona fide farmers”** means genuine or real farmers whose dominant income is generated from farming.
- 3.5 **“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 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 organisms.
- 3.6 **“category” –**
- (a) in relation to property, means a category of property determined in terms of section 8 of the Act;
  - (b) in relation to owners of property, means a category of owners determined in terms of section 15 (2) of the Act; includes “guesthouses”, “bed & Breakfast” and “Self-catering” establishments

- 3.6/1 **“date of valuation”** means the date determined by a municipality in terms of section 31(1)
- 3.6/2 **“day”** means when any number of days are prescribed for the performance of any Act, those days must be reckoned by excluding the first day and including the last day, unless the last day falls on a Saturday, Sunday or any public holiday, in which case the number of days must be reckoned by excluding the first day and also such Saturday, Sunday or public holiday;
- 3.7 **“eco –tourism property”** means agricultural property use for the purpose of eco- tourism
- 3.8 **“exclusion”** in relation to a municipality’s rating power, means a restriction of that power as provided for in section 17 of the Act;
- 3.9 **“game farming”** means agricultural property on which the trading in - or the hunting of game take place.
- 3.10 **“household income”** means the income accruing to all members of the household permanently residing at the address. It includes income of spouses;
- 3.11 **“income tax act”** means the Income Tax Act ,1962 (Act 58 of 1962)
- 3.12 **“indigent person”** means a person whose household income does not exceed the minimum household income as predetermined by the council;
- 3.13 **“Industrial”** means any 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 labor are significantly involved.
- 3.14 **“land reform beneficiary”** in relation to a property , means a person who-acquired the property through the Provincial Land and Assistance Act,1993 (Act 126/1993); the Restitution of Land Rights Act, 1994 (act 22/1994); holds the property subject to the Communal Property Associations Act,1996 (Act 28 of 1996); or holds or acquires the property in terms of such other land tenure enacted after this Act has taken effect;
- 3.15 **“land tenure right”** means a land tenure right as defined in section 1 of the upgrading of land tenure rights Act 1991 (Act no.112 of 1991)
- 3.16 **“local community”**, in relation to a municipality
- (a) means that body of persons comprising:
    - (i) the residents of the municipality;
    - (ii) the ratepayers of the municipality;
    - (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
  - (ii) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality.
  - (b) Includes, more specifically, the poor and other disadvantaged sections of such body of persons.
- 3.17 **“local municipality”** means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155(1) of the Constitution as a category B municipality;

- 3.18 **“market value”**, in relation to a property, means the value of the property determined in accordance with section 46 of the Act;
- 3.19 **“MEC for Local Government”** means the member of the Executive Council of a Province who is responsible for local government in that province
- 3.20 **“Mining Property”** means a property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act no. 28 of 2002).
- 3.21 **“Multiple use properties”** in relation to a property, means the use of a property for more than one purpose, subject to section 9
- 3.22 **“Municipal council” or “Council”** means a municipal council referred to in section 18 of the municipal Structures act;
- 3.23 **“Municipal Finance Management Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act no. 56 of 2003)
- 3.24 **“Municipality”** means the municipal council for the Municipal area of Oudtshoorn.
- 3.25 **“Municipal properties”** means those properties of which the municipality is the owner.
- 3.26 **“Municipal Systems Act”** means the Local Government: municipal Systems Act, 2000 (Act 32 /2000);
- 3.27 **“Newly ratable property”** means any ratable property on which property rates were not levied by 30 June 2005 excluding a property that was incorrectly omitted from a valuation roll and for that reason was not rated before that date.
- 3.28 **“Occupier”**, in relation to a property, means a person in actual occupation of a property whether or not that person has a right to occupy the property;
- 3.29 **“Office bearer”** in relation to places of public worship, means the primary person who officiates at services at that place of worship;
- 3.30 **“Official residence”** , in relation to places of public worship, means –  
(a) a portion of the property used for residential purposes: **or**  
(b) **one** residential property, if the residential property is not located on the same property as the place of worship,  
registered in the name of a religious community or registered in the name of a trust established for the sole benefit of a religious community and used as a place of residence for an “office bearer”
- 3.31 **“Organ of state”** means an organ of state as defined in section 239 of the constitution
- 3.32 **“Owner”**  
(a) in relation to a property referred to in paragraph (a) of the definition of “property” means-a person in whose name ownership of the property is registered;  
(b) in relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;

(bA) in relation to a time sharing interest contemplated in the Property Time-sharing Control Act, 1983 (Act no. 75 of 1983), means the management association contemplated in the regulations made in terms of section 12 of the Property Time-sharing Control Act, 1983, and published in government notice R327 of 24 February 1984;

(bB) in relation to a share block company, the share block company as defined in the Share Block Control Act, 1980 (Act no. 59 of 1980)

(bC) in relation to buildings, other immovable structures and infrastructure referred to in section 17(1)(f), means the holder of the mining right or the mining permit; and

(c) in relation to a land tenure right referred to in paragraph (c) of the definition of "property", means a person in whose name the right is registered or to whom it was granted in terms of legislation; or

(d) in relation to public service infrastructure referred to in paragraph (d) of the definition of "property", means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of "public controlled",

provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:

- (i) A trustee, in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of a property, in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property, in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of a property, in the estate of a person under judicial management;
- (v) a curator, in the case of a property, in the estate of a person under curatorship;
- (vi) an usufructuary or other 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;
- (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
- (viiA) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right; or
- (viii) buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

3.33 "**permitted use**", in relation to a property, means the limited purposes for which the property may be used in terms of –

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

3.34 "**person**" includes an organ of the state;

3.35 "**place of public worship**" means property used primarily for the purposes of congregation, excluding a structure that is primarily used for education instruction in which secular or religious education is the primary instructive medium: Provided that the property is –

- (a) registered in the name of a religious community
- (b) registered in the name of a trust established for the sole benefit of a religious community; or
- (c) subject to a land tenure right

- 3.36 “**prime rate**” means the prime rate of the bank where the primary account of the municipality is kept plus 1%
- 3.37 “**protected area**” means an area that is or has to be listed in the register referred to in section 10 of the National Environmental Management Protected Areas Act, 2003.
- 3.38 “**public benefit organization**” means an organization conducting specified public benefit activities as defined in the Act and registered in terms of the Income Tax Act 1962 (act 1962 no. 58) for tax reductions of those activities.
- 3.39 “**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 supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
  - (c) power stations, power substations or power lines forming part of an electricity scheme serving the public.
  - (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
  - (e) railway lines forming part of a national railway system;
  - (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
  - (g) runways, aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding these, which must be vacant for the air navigation purposes;
  - (h) breakwater, sea walls, channels. Basin, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising light houses, radio navigational aids buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
  - (i) any other publicly controlled as may be prescribed ; or
  - (j) rights of way easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i)
- 3.40 “**public service purposes**”, in relation to the use of a property, means property owned and used by an organ of state as-
- (a) hospitals and 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) court of law,
- but excludes property contemplated in the definition of “public service infrastructure”,

- 3.41 **“rate”** means a municipal rate on property envisaged in section 229(1)(a) of the Constitution;
- 3.42 **“rateable property”** means property on which a municipality may in terms of section 2 of the Act levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act;
- 3.43 **“ratio”**, in relation to section 19, means the relationship between the cent amount in the Rand applicable to residential properties and different categories of non-residential properties: Provided that the two relevant cent amounts in the Rand are inclusive of any relief measures that amount to rebates of a general application to all properties within a property category;
- 3.44 **“rebate”**, in relation to a rate payable on a property, means a discount on the amount of the rate payable on the property;
- 3.45 **“reduction”**, in relation to a rate payable on a property, means the lowering of the amount for which the property was valued and the rating of the property at that lower amount;
- 3.46 **“residential property”** means a property included in a valuation roll in terms of section 8 in respect of which the primary use or permitted use is for residential purposes without derogating from section 9;
- 3.47 **“sectional titles act”** means the Sectional Titles Act , 1986 (Act 95/1986)
- 3.48 **“sectional titles unit”** means a unit defined in section 1 of the Sectional Titles Act;
- 3.49 **“small holding or Rural area”** an area mainly zoned as rural or any other equivalent zoning with the main purpose to accommodate smaller rural properties in the rural area used for agricultural purposes or alternatively used for residential purposes
- 3.50 **“specified public benefit activity”** means an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act, 1962 (Act no.58 of 1962)
- 3.51 **“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 service
  - (c) State properties that provide provincial / national service
- 3.52 **“vacant land”** means a land where no immovable improvements have been erected.

#### 4. PURPOSE OF THE POLICY

The purposes of the policy are to:

- (1) Comply with the provisions of section 3 of the Act.
- (2) Determine criteria to be applied for- the levying of differential rates for different categories of properties;

- a) exemptions;
  - b) grants and rebates; and
  - c) rate increases.
- (3) Determine or provide criteria for the determination of:-
- a) categories of properties for the purpose of levying different rates; and
  - b) categories of owners of properties for the purpose for the granting of exemptions, rebates and reductions.
- (4) Determine how the municipality's powers must be exercised in relation to multi purpose properties.
- (5) Identify and provide reasons for
- a) exemptions, rebates and reductions;
  - b) exclusions; and
  - c) rates on properties that must be phased in.
- (6) Take into account the effect of rates on the poor.
- (7) Take into account the effect of rates on organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax exemptions because of those activities, in the case of property owned and used by such organisations for those activities.
- (8) Take into account the effect of rates on public service infrastructure.
- (9) Take into account the effect of rates on public service purposes
- (10) Determine measures to promote local economic and social development.
- (11) Identify all rateable property that is not rated.

## 5 POLICY PRINCIPLES

5.1 Rates are levied in accordance with the Act and amended Act as an amount in the rand based on the market value of all ratable property contained in the municipality's valuation roll and supplementary valuation roll.

5.2 As allowed for in the Act, the Municipality has chosen to differentiate between various categories of property and categories of owners of property. Some categories of property and categories of owners are granted relief from rates. The municipality however does not grant relief in respect of payments for rates to any category of owners or properties, or to owners of properties on an individual basis, other than by way of an exemption, rebate or reduction provided for in this policy.

5.3 There would be no phasing in of rates based on the new valuation roll, except as prescribed by legislation.

5.4 The rates policy for the municipality is based on the following principles:

(a) **Equity**

The municipality will treat all ratepayers with similar properties the same

(b) **Affordability**

The ability of a person to pay rates will be taken into account by the municipality. In dealing with the poor/indigent ratepayers the municipality will provide relief measures through exemptions, reduction or rebates.

(c) **Sustainability**

Rating of property will be implemented in a way that:

- i) it supports sustainable local government by providing a stable and buoyant revenue source within the discretionary control of the municipality ; and
- ii) supports local social economic development

**(d) Cost efficiency**

Rates will be based on the value of all ratable property and the amount required by the municipality to balance the operating budget after taking into account profits generated on trading ( water, electricity ) and economic (refuse removal, sewerage removal) services and the amounts required to finance exemptions, rebates reduction and phasing-in of rates as approved by the municipality from time to time.

**6 SCOPE OF THE POLICY**

This policy document guides the annual setting (or revision) of property rates. It does not make specific property rates proposals. Details pertaining to the applications of the various property rates are published in the Provincial Gazette and the Municipality's schedule of tariffs, which must be read in conjunction with this policy.

**7 APPLICATION OF THE POLICY**

In imposing the rate in the rand for each annual operating budget component, The Municipality shall grant exemptions, rebates and reductions to the categories of properties and categories of owners as allowed for in this policy document.

**8 CATEGORIES OF PROPERTY**

8.1 Criteria for determining categories of properties for the purpose of levying different rates and for the purpose of granting exemptions will be according to:

- (a) the use of the property;
- (b) the permitted use of the property or;
- (c) the geographical area in which the property is situated

8.2 Categories of property for the municipality include-

<b>Section</b>	<b>Sub</b>	<b>Sub</b>	<b>Long</b>	<b>Short</b>
8.2	(a)		Accommodation establishment	Acc est
8.2	(b)		Agricultural purpose (farming)	Agri
8.2	(b)	(i)	Agricultural purpose vacant	Agri vac
				Agri acc
8.2	(b)	(ii)	Agricultural accommodation establishment	est
8.2	(b)	(iii)	Agricultural bus	Agri bus
8.2	(b)	(iv)	Agricultural eco-tourism	Agri eco
				Agri
8.2	(b)	(v)	Agricultural game farm	game
8.2	(b)	(vi)	Agricultural industrial	Agri ind
8.2	(b)	(vii)	Agricultural institution	Agri inst
8.2	(b)	(viii)	Agricultural not used for any purpose	Agri
8.2	(b)	(ix)	Agricultural private nature reserve	priv nat
8.2	(b)	(x)	Agricultural religion	Agri rel
8.2	(b)	(xi)	Agricultural residential	Agri res
				Agri res
8.2	(b)	(xii)	Agricultural residential vacant	vac
8.2	(b)	(xiii)	Agricultural other than (i) to (xiii)	Agri non
8.2	(c)		Business and commercial	Bus
8.2	(c)	(i)	Business and commercial vacant	Bus vac
8.2	(d)		General residential properties improved	Gen res
				Gen res
8.2	(d)	(i)	General residential properties vacant	vac
8.2	(e)		Industrial	Ind
8.2	(e)	(i)	Industrial vacant	Ind vac

8.2	(f)		Institutional	Inst
8.2	(f)	(i)	Institutional vacant	Inst vac
8.2	(g)		Mining properties	Mine
8.2	(h)		Multi-purpose properties	Multi
8.2	(i)		Municipal properties	Mun
8.2	(i)	(i)	Municipal properties vacant	Mun vac
				Mun
8.2	(i)	(ii)	Municipal properties agricultural	agri Mun
8.2	(i)	(iii)	Municipal properties agricultural vacant	agri vac
8.2	(i)	(iv)	Municipal properties business and commercial	Mun bus
8.2	(i)	(v)	Municipal properties industrial	Mun ind
8.2	(i)	(vi)	Municipal properties institutional	Mun inst Mun
8.2	(i)	(vii)	Municipal properties public open places	pop
8.2	(i)	(viii)	Municipal properties residential improved	Mun res Mun res
8.2	(i)	(ix)	Municipal properties residential vacant	vac
8.2	(i)	(x)	Municipal properties religious	Mun rel Mun
8.2	(i)	(xi)	Municipal properties sport facilities	sport
8.2	(j)		Such other categories as Council may to time identify	Mun other Other
8.2	(j)	(i)	Other historical monument	hist
8.2	(k)		Private open spaces	Pos
8.2	(l)		Provincial owned properties	Prov Prov
8.2	(l)	(i)	Provincial owned properties vacant	vac Prov
8.2	(l)	(ii)	Provincial owned properties agricultural	agri Prov
8.2	(l)	(iii)	Provincial owned properties agricultural vacant	agri vac Prov
8.2	(l)	(iv)	Provincial owned properties business	bus
8.2	(l)	(v)	Provincial owned properties industrial	Prov ind Prov
8.2	(l)	(vi)	Provincial owned properties institutional	inst
8.2	(l)	(vii)	Provincial owned properties public open spaces	Prov pop
8.2	(l)	(viii)	Provincial owned properties residential improved	Prov res Prov res
8.2	(l)	(ix)	Provincial owned properties residential vacant	vac
8.2	(m)		Public benefit organisations	Pub ben
8.2	(n)		Public service infrastructure	Psi
8.2	(n)	(i)	Public service infrastructure municipality	Psi mun
			Public service infrastructure national	
8.2	(n)	(ii)	government	Psi nat
			Public service infrastructure provincial	
8.2	(n)	(iii)	government	Psi prov
8.2	(n)	(iv)	Public service infra-structure private	Psi priv
8.2	(o)		Religious used properties improved	Rel
8.2	(o)	(i)	Religious use properties vacant	Rel vac
8.2	(p)		Residential properties improved	Res
8.2	(p)	(ii)	Residential properties vacant	Res vac Res
8.2	(p)	(iii)	Residential properties with departure use	depart Res re-
8.2	(p)	(iv)	Residential properties re-development	dev

8.2	(q)		Sectional title schemes	SS SS
8.2	(q)	(i)	Sectional title schemes - garage or store etc.	gar/st
8.2	(r)		State owned properties	State State
8.2	(r)	(i)	State owned properties vacant	vac State
8.2	(r)	(ii)	State owned properties agricultural	agri State
8.2	(r)	(iii)	State owned properties agricultural vacant	agri vac State
8.2	(r)	(iv)	State owned properties business	bus State
8.2	(r)	(v)	State owned properties industrial	ind State
8.2	(r)	(vi)	State owned properties institutional	inst State
8.2	(r)	(vii)	State owned properties public open spaces	pop State
8.2	(r)	(viii)	State owned properties residential improved	res State
8.2	(r)	(ix)	State owned properties residential vacant	res vac
8.2	(s)		Sundry properties vacant	Vac

## 9 CATEGORIES OF OWNERS

Criteria for determining categories of owners of properties, for the purpose of granting exemptions, rebates and reductions will be according to the-

- (a) indigent status of the owner of a property as determined by the income level of the owner;
- (b) limited income of owners of a property who are pensioners or dependant on social grants;
- (c) owners of property situated within an area affected by-
  - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No.57 of 2002); **or**
  - ii. any other serious adverse social or economic conditions;
- (d) owners of residential properties with a market value below a determined threshold; (or)
- (e) owners of agricultural properties who are bona fide farmers

## 10 PROPERTIES USED FOR MULTIPLE PURPOSES (section 8 & 9)

A property used for multiple purposes must, for rates purposes, be assigned to a category determined by the municipality for properties used for:

- (a) a purpose corresponding with the permitted use of the property
- (b) a purpose corresponding with the dominant use of the property; **or**
- (c) multiple purpose in terms of section 8(2)(i)

A rate levied on a property assigned in terms of subsection (1) (c) to a category of properties used for multiple purposes must be determined by -

- (a) apportioning the market value of a property, in a manner as may be prescribed, to the different purposes for which the property is used; and
- (b) applying the rates applicable to the category for those purposes to the different market value apportionments

**If the market value of the property can be apportioned, each portion must be categorized according to its individual use as determined in items 8 and/or 10 above. If the market value of the property cannot be apportioned to its various use purposes, then such a property must be categorized in terms of the dominant use of the property**

## **11 CLASSIFICATION OF SERVICES AND EXPENDITURE**

The Chief Financial Officer shall, subject to the guidelines provided by the Legislation and the Executive Mayor, provide for the classification of services as outlined in the Municipality's annual budget into trading and economic services.

## **12 LEVYING OF RATES**

### **(1) Liability for rates by property owners:**

Rates levied by a municipality on a property must be paid by the owner of the property, subject to Chapter 9 of the Municipal Systems Act.

2 (a) Joint owners are jointly and severally liable for the amount due for rates on that property.

(b) In a case of agricultural property owned by more than one owner in undivided shares where the holding of such undivided shares was allowed before the commencement of the subdivision of the Agricultural Land Act, 1970 (Act no. 70 of 1970) the municipality may consider the following options for determining the liability for rates:

If the joint owners are all available, the issue of who is liable for rates will be dealt with in the context of whether they have entered into an agreement or not regarding payment of rates liabilities.

Where the joint owners have a written agreement that a specific joint owner is liable for all the rates, the municipality will hold such a joint owner liable in respect of all the rates. A certified copy of the agreement must be submitted to the municipality.

**Where there is no such agreement** the municipality will according to section 24(2);

(i) hold anyone of the joint owners in terms of paragraph (a) liable for all rates levied in respect of the agricultural property concerned; **or**

(ii) hold any joint owner only liable for that portion of the rates levied on the property that represents that joint owner's undivided share in the agricultural property.

(iii) If the joint owners are not traceable with the exception of one joint owner and such joint owner is occupying or using the entire property or a significant larger portion the municipality will hold that joint owner liable for the total rates bill.

### **(2) Method and time of payment**

The municipality will recover the rate levied in periodic instalments of equal amounts in twelve months. The monthly instalment is payable on or before the day determined by Council for payment of services, following the month in which it has been levied. Interest will be charged at 1% above the prime interest rate for any late payments received.

### **(3) Annual Payment Arrangements**

By prior arrangement with the municipality the rate may be paid in a single amount before 30 September of the year it is levied in, however, application must be submitted before 31 May prior to the financial year of implementation of the arrangement. The Director of Financial Services will consider any applications after this date.

**(4) (i) Recovery of arrear rates from owner**

As soon as the annual rates becomes overdue or the monthly rates have been raised for the remaining months in the financial year, an overdue notice must be issued on the owner at the address selected by the owner.

If there is no response from the owner, a further overdue notice should be served at the property with a rider that the services to the property will be terminated within a reasonable period, the minimum being 30 days, should the rates not be paid or satisfactory arrangements made.

This notice should enquire whether the occupier is paying rent and other monies to an agent of the owner and the state that the municipality can, legally, attach the net payment. ( i.e. gross receipts by the agent less commission due to the agent on those gross receipts) due to the owner by the agent to settle the arrears. Should the tenant refuse to co-operate, the services should be disconnected and the other debt management actions implemented

**(4) (ii) Recovery of arrear rates from tenants, occupiers and agents**

If an amount due for rates levied in respect of a property is unpaid after the day determined, the municipality may recover the amount in whole or in part from a tenant or occupier of the property. The amount the municipality might recover from the tenant or occupier of the property is limited to the amount of the rent or other money due and payable by the tenant or occupier to the owner of the property. Any amount the municipality recovers from the tenant or occupier of the property may be set off, by the tenant or occupier, against any money owed by the tenant or occupier to the owner.

The municipality may recover the amount due for rates from an agent of the owner after it has given written notice to that agent or person. The amount the municipality may recover from the agent or other person is limited to the amount of that rent received by the agent or person, less the commission due to that agent or person. (subject to the Estate Agents Act, 1976 (Act No. 112 of 1976). The agent or other person must, on request by the municipality, furnish the municipality with a written statement specifying all payments for rent on the property received by that agent or person during a period determined by the municipality. If the managing agent is identified through the tenant's assistance, a copy of the notice, which was served on the tenant, must be served on the agent stating that failure to co-operate would lead to action being taken against the agent as well as the termination of the services at the supply address. Should the payments by the agent not be able to redeem the arrears within the next 12 months, the monies must be attached and the next step in the debts

management plan of the municipality implemented. The municipality may however decide to extend the 12 month period to such longer period that they deem fit based on the merit.

Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.

In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

**(5) Deferral of payment of rates liabilities**

The municipality will consider each and every application for deferral of rates, taking into account the merits and demerits of each and the financial implications thereof in so far the cash-flow of the municipality is concerned.

**(6) Supplementary Valuation Debts**

In the event that a property has been transferred to a new owner and an Supplementary Valuation took place, the previous owner as well as the new owner

will jointly and separately be held responsible for the settling the supplementary rates account.

#### **(7) Ownership**

Properties, which vest in the Municipality during developments, i.e. open spaces and roads should be transferred at the cost of the developer to the Municipality. Until such time, rates levied will be for the account of the developer.

#### **(8) Rates Clearance Certificate**

Rates Clearance Certificates will be valid until 30 June of a financial year, if monies paid in full until such a date. However, should attorneys request to extend the certificate for 120 days beyond this date, and this extension of time surpasses the date of 30 June the full new year's rates or estimated rates become payable in full.

#### **(9) Levying of rates on property in sectional title scheme (section 25)**

A rate on property, which is subject to a sectional title scheme, will be levied on the individual sectional title units in the scheme.

### **13 DIFFERENT RATING**

13.1 Criteria for different rating on different categories of properties will be according to -

- (a) The nature of the property including its sensitivity to rating e.g. agricultural properties used for bona fide agricultural purposes.
- (b) The promotion of social and economic development of the community.

13.2 Different rating among the various property categories may be done by way of setting different cent amount in the rand for each property category and/or by way of reductions and rebates.

The Director of Financial Services will annually calculate the costs of these services and determine through a public participation process to which extent these services are used by the various categories of ratepayers. Inputs from representatives from the various categories of ratepayers must be considered and agreed upon. Different categories of properties may pay different rates in the rand based on the market value of their properties

### **14 IMPERMISSIBLE RATES**

A municipality may not levy the following rates in terms of sections 16 (1) and 17 (1) of the Act.:

- (i) Rates that would prejudice national economic policies.
  - (ii) Rates that would prejudice economic activities across boundaries
- Rates that would prejudice national mobility of goods, services, capital or labour
- On the first 30% of market value of public service infrastructure
- On any part of the seashore as defined in the Seashore Act
- On any part of the territorial waters of the Republic in terms of the Marine Zones Act (15/1994)
- On any island of which the state is the owner including the Prince Edward Islands
- On a special nature reserve, national park or nature reserve within the meaning of the National Environmental Management: Protected Areas Act, 2003 (Act no 57 of 2003), or of a national botanical garden within the meaning of the National Environment Management: Biodiversity Act of 2004 (Act no 10 of 2004) which are not developed or used for commercial, business or residential agricultural purposes.
- On a mineral right within the definition of property
- On a property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses ten years from the date on which such beneficiary's title was registered in the office of the Registrar of deeds

On the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll to a category determined as residential property or multiple used property provided that one or more component is used for residential purposes.

On 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 is, officiates at services at that place of worship.

***(The exclusion lapses if not used for the purposes as indicated above)***

## **15 EXEMPTIONS**

15.1 The following categories of property are conditionally partially or fully exempted from rates:

**(a) Municipal properties**

Municipal properties are exempted from paying rates.

**(b) Residential properties**

(i) The first R15 000 of the market value of a residential property contemplated in terms of section 17(1)(h) of the Property Rates Act or a multiple used property (provided that one or more component is used for residential purposes) are exempted from rates.

(ii) Owners of residential property qualifying for indigent grant in terms of the council's Indigent Policy and/or rebates in terms of item 17 of this policy, with a market value below the amount annually determined by council during its budget process, are exempted from paying rates. (see section 15(2) (e) of the act supra.)

This is an important part of the council's Indigent Policy and is aimed primarily at alleviating poverty.

**(c) Cemeteries and crematoriums**

All burial facilities registered in the names of private persons and operated not for gain.

**(d) Public Service Infrastructure**

The first 30% of the valuation of all public infrastructure as defined on paragraph 2.12 are exempted from rates as they provide essential facilities and services to the community.

**(e) Public Benefit Organizations**

The following Public Benefit Organizations may apply for the exemption of property rates subject to producing a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act. 1962 (No 58 of 1962 ):

**i Health care institutions**

Properties used exclusively as a hospital, clinic and mental hospital. Including workshops used by the inmates, laundry or cafeteria facilities,

Provided that any profits from the use of the property are used entirely for the benefit of the institution and/or for (to) charitable purposes within the municipality.

**ii Education institutions**

Property belonging to non-profitable independent schools for educational purposes only.

**iv Independent schools**

Property used by registered non-profitable independent schools for educational purposes only.

- v. Charitable institutions  
Property belonging to not-for-gain institutions or organizations that Perform charitable work.
- vi Sporting bodies  
Property used by an organization whose sole purpose is to use basis.
- vii Cultural institutions  
Properties declared in terms of the Cultural Institutions Act, Act 29 of 1969 or the Cultural Institutions Act, Act 66 of 1989, and not operated for gain.
- ix Youth development organizations  
Property owned and/or used by organizations for the provision of youth Leadership or development programme.
- x Animal welfare  
Property owned or used by institutions/ organizations whose Exclusive aim is to protect birds, reptiles and animals on a not-for gain basis.

#### 15.2 Exemptions will be subject to the following conditions

- (a) all applications, must be addressed in writing to the municipality;
- (b) a SARS tax exemption certificate must be attached to all applications;
- (c) the Council must approve all applications;
- (d) applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought;
- (e) the municipality retains the right to refuse exemptions if the details supplied in the application form were incomplete, incorrect or false; and
- (f) exemptions will only be granted by Council resolution.

## 16 REBATES

### 16.1 Categories of property

#### **(a) Residential Properties:**

Council may annually during the budget process, by means of an approved sliding scale based on monthly household income, grant qualifying owners a rebate on their rates payable.

#### **(b) Business, commercial and industrial properties**

- (i) The municipality may grant rebates to enterprises that promote local, social and economic development in its area of jurisdiction, based on its Local, Social and Economic Development Policy. The following criteria will apply
  - (a) job creation in the municipal area;
  - (b) social upliftment of the local community; and
  - (c) creation of infrastructure for the benefit of the community
- (ii) Rebates will be granted on application subject to:
  - (a) a business plan issued by the directors of the company indicating how the local, social and economic development objectives of the municipality are going to be met;

- (b) a continuation plan issued by the directors and certified by auditors of the company stating that the objectives have been met in the first year after establishment and how the company plan to continue to meet the objectives;
- (c) an assessment by the municipal manager or his/her nominee indicating that the company qualifies; and
- (d) an Council resolution.

**(d) Agricultural property rates ratio & rebate: (provincial regulation gazette Vol 537, 12 March 2010 no 33016)**

- i. Agricultural properties :  
The rates ratio between agricultural properties used for agricultural purposes;  
agricultural properties not used for any purpose; small holdings used for agricultural purposes and small holdings not used for any purpose and residential properties may not be more than the ratio that the Minister for Provincial and Local Government in concurrence with the Minister of Finance may from time to time determine and promulgate in the Government Gazette
  - ii Council may however when reviewing its rates policy during its budget process resolve to approve further rebates on farm properties used for agricultural purposes.  
Qualifying requirements are that the property must be categorized according to it's usage in terms of section 8(2)(d)(i) of the act supra or the owner should be taxed by SARS as a **bona fide** farmer and the last tax assessment must be provided as proof ,or
  - iii where the owner is not taxed as a farmer, proof is required that income from farming activities exceeds 60% of the household income.
- (d) Conservation Land**  
No rebates are granted to privately owned properties whether designated or used for conservation purposes.
- (e) Historical or heritage properties**  
No rebates are granted other than residential rebates if appropriate
- (f) Game Farms:**  
Taking into account the contribution to the local economy, Council may annually during the budget process determine the rebate on game farms
- (g) Eco –Tourism Farms:**  
Taking into account the contribution to the local economy, Council may annually during the budget process determine the rebate on Eco- Tourism farms

**16.2 Categories of owners**

**(a) Retired and Disabled Persons Rate Rebate**

- i Retired and disabled persons qualify for special rebates according to monthly household income. To qualify for the rebate a property owner must:
  - a. occupy the property as his/her normal residence;

- b. be at least 60 years of age or retired due to medical reasons or in receipt of a disability pension.
- c. be in receipt of a total monthly income from all sources (including income of spouses of owner) not exceeding the amount annually set by Council
- d. not be the owner of more than one property; and
- e. provided that where the owner is unable to occupy the property due to no fault of his/her own, the spouse or minor children may satisfy the occupancy requirement.
- f. Owners of properties within a specific geographical area in terms of section 8(1)(c) of the Act may according to conditions adopted by council apply for rebate.

**(b) Method of application**

Property owners must apply on a prescribed application form for a rebate as determined by the municipality.

- a. Applications must (where applicable) be accompanied by –
  - i a certified copy of the identity document or any other proof of the owner's age which is acceptable to the municipality;
  - ii. an affidavit from the owner;
  - iii if the owner is a disabled person proof of a disability pension must be supplied; and
  - iv if the owner has retired at an earlier stage for medical reasons proof thereof must be submitted.
  - v These applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought.  
The Municipality retains the right to refuse rebates if the Details supplied in the application form are incomplete, incorrect or false.

**OWNERS WILL ONLY QUALIFY FOR A REBATE IN TERMS OF ONE CATEGORY:**

**17 REDUCTIONS**

17.1 A reduction in the municipal valuation as contemplated in section 15(1)(b) of Act will be granted where the value of a property is affected by-

- (a) a disaster within the meaning of Disaster Management Act, 2002 (Act No.57 of 2002 ); or
- (b) any other serious adverse social or economic conditions

17.2 The reduction will be in relation to the certificate issued for this purpose by the municipal valuer.

17.3 All categories of owners can apply for a reduction in the rates payable as described above.

17.4 Reduction will only be granted as per Council resolution

**18 COSTS OF EXEMPTIONS, REBATES, REDUCTIONS, PHASING IN OF RATES AND GRANTS-IN-LIEU OF RATES**

(1) During the budget process the Chief Financial Officer must inform council of all the costs associated with the suggested exemptions, rebates, reductions, phasing in of rates and grants-in-lieu of rates.

- (2) Provisions must be made in the operating budget –
- (a) for the full potential income associated with property rates; and
  - (b) for the full costs associated with exemptions, rebates, reductions, phasing in of rates and grants-in-lieu of rates.

Projections regarding revenue foregone for a financial year in relation to exemptions, rebates, reductions, exclusions, phasing – in etc. must be reflected in the council's annual budget for that year.

- (c) A list of all exemptions, rebates, reductions, exclusions, phasing in etc. must be tabled before council.

## 19 SPECIAL RATING AREAS

The municipality may by council resolution determine an area within its boundaries as a special rating area for the purpose of raising funds for improving or upgrading that area; and differentiate between categories of property when levying an additional rate

Before determining a special rating area the municipality must consult the local community on the proposed boundaries of the area, the proposed improvement or upgrading of the area and obtain the consent of the majority of the ratepayers in that proposed special rating area.

The municipality must determine the boundaries and indicate how the area is to be improved or upgraded by the funds derived from the additional rate.

Establish a separate accounting and record-keeping system regarding the revenue generated by the special rate and the improvement or upgrading of the area.

The municipality may establish a committee composed of persons representing the community to act as a consultative and advisory forum. Representivity, including gender must be taken into account when such a committee is established.

## 20. RATES INCREASES

- 20.1 The municipality will consider increasing rates annually during the budget process in terms of the guidelines issued by National Treasury from time to time.
- 20.2 Rate increases will be used to finance the increase in operating costs of community and subsidized services.
- 20.3 Relating to community and subsidized services the following annual adjustments to rates payable will at least be made:
  - i. All salary and wage increases as agreed at the South African Local Government Bargaining Council
  - ii An inflation adjustment for general expenditure, repairs and maintenance and contribution to statutory funds, and
  - iii Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year
- 20.4 Extraordinary expenditure related to community service not foreseen during the Previous budget period and approved by the Council during a budget review process will be financed by an increase in property rates.
- 20.5 All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.

## 21. DISREGARDED ITEMS FOR VALUATION PURPOSES

The following must not be taken into account in determining the market value of a property

(i) Any building or other immovable structure under the surface of the property which is the subject matter of any mining authorization or mining right defined in the Mineral and Petroleum Resources Development Act, 2002 (Act no 28 of 2002)

(ii) the value of any equipment or machinery which, in relation to the property concerned, is immovable property, excluding-

a lift

an escalator

an air-conditioning plant

fire extinguishing apparatus

a water pump installation for a swimming pool or for irrigation or domestic purposes;

and

any other equipment or machinery that may be prescribed; and

(iii) an unregistered lease in respect of the property

(iv) in respect of property used for agricultural purposes the value of any annual crops or growing timber on the property that have yet not been harvested at the date of valuation.

(v) Public Service Infrastructure needs only too be valued if it is the council's intention to levy rates on it.

## 22 LOCAL, SOCIAL AND ECONOMIC DEVELOPMENTS

The municipality may grant rebates to organisations that remotes local, social and economic development in its area of jurisdiction based on the criteria determined in its local, social and economic development policy. The following criteria will apply:

(a) job creation in the municipal area;

(b) social upliftment of the local community; and poverty alleviation to the indigents

(c) Improve local economic growth

(d) Promote service delivery

## 23. REGISTER OF PROPERTIES

The Chief Financial Officer must draw up and maintain a register of properties as contemplated in section 23 of the Act.

## 24. NOTIFICATION OF RATES

24.1 The municipality will give notice of all rates approved at the annual budget meeting at least 30 days prior to the date that the rates become affective.

**Accounts delivered after 30 days notice will be based in the new rates.**

24.2 A notice stating the purport of the municipality's resolution and the date on which the new rates become operational will be displayed by the municipality at places provided for that purpose.

## 25. FREQUENCY OF VALUATIONS

The municipality shall prepare a new valuation roll every 5 (five) years and a supplementary valuation roll annually.

## 26. GENERAL VALUATION AND PREPARATION OF VALUATION ROLLS

A municipality intending to levy a rate on property must cause a general valuation to be made of all properties in the municipality, and must prepare a valuation roll of all properties in terms of such valuation.

All rateable properties in a municipal area must be valued during such general valuation, including all properties fully or partially excluded from rates in terms of Section 17 of the present Act. However, if the municipality does not intend to levy

rates on its own property, on public service infrastructure owned by a municipal entity, on rights in properties, and on properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racial discrimination, the municipality is not obliged to value such properties as part of the valuation process.

A municipality may also apply to the Minister for exemption from the obligation to value properties excluded from rates in terms of Section 17 if the municipality can demonstrate that the valuation of such properties is too onerous for it, given its financial and administrative capacity.

Properties which have not been valued, because of any of the foregoing considerations, must nevertheless be included in the valuation roll.

## **27. DATE OF VALUATION**

For the purposes of a general valuation a municipality must determine a date that may be not more than 12 months before the start of the financial year in which the valuation roll is to be first implemented.

The general valuation must reflect the market values of properties in accordance with market conditions which apply as at the date of the valuation, and in accordance with any other applicable provisions of the present Act.

## **28. COMMENCEMENT AND PERIOD OF VALIDITY OF VALUATION ROLLS**

A valuation roll takes effect from the start of the financial year following completion of the public inspection period required by the present Act, and remains valid for that financial year or for one or more subsequent financial years, as the municipality may decide, but in total not for more than four financial years.

Section 32(2) provides for the extension of the period of validity of the valuation roll by the MEC for Local Government, but only up to a period of five financial years, and only in specified circumstances

## **29. GENERAL BASIS OF VALUATION**

The market value of a property is the amount the property would have realised if sold on the date of valuation in the open market by a willing seller to a willing buyer.

## **30. VALUATION OF PROPERTY IN SECTIONAL TITLE SCHEMES**

When valuing a property which is subject to a sectional title scheme, the valuer must determine the market value of each sectional title unit in the scheme.

## **31. SUPPLEMENTARY VALUATIONS**

A municipality must regularly, but at least once a year, update its valuation roll by causing a supplementary valuation roll to be prepared, or the valuation roll itself to be amended.

## **32. REGULAR REVIEW OF RATES POLICY**

32.1 The rates policy must be reviewed on an annual basis during the Budget period to ensure that it complies with the Municipality's strategic objectives and with legislation.

## **33. ENFORCEMENT / IMPLEMENTATION**

This first amended rates policy has been approved by the Municipality in terms of resolution (a) 932 dated 31/03/2012 and comes into effect from 1 July 2012.

## **34. LEGAL REQUIREMENTS**

A paraphrase – and in some instances an abridgement – of the key requirements of the Local Government: Property Rates Act no. 6 of 2004 is attached as an Addendum “A” to this policy.

### **35 SHORT TITLE**

35.1 This policy is the Property Rates Policy of the Oudtshoorn Local Municipality.

## ADDENDUM "A"

### LEGAL REQUIREMENTS:

#### CAUTIONARY NOTE

*This paraphrase is not meant to cover the complete contents of the Property Rates Act, but is focused rather on those requirements, which are immediately relevant to a municipality's rates policy. Thus, the section dealing with transitional arrangements has been omitted, and so have most of the provisions dealing with the valuation process.*

#### SECTION 2: POWER TO LEVY RATES

A metropolitan or local municipality may levy a rate on property in its municipal area. A municipality must exercise its power to levy a rate on property subject to Section 229 and any other applicable provisions of the Constitution, the provisions of the present Act and Amended Act, the regulations pertaining thereto and the rates policy it must adopt in terms of this Act.

#### SECTION 3: ADOPTION AND CONTENTS OF RATES POLICY

Logical order of processes for implementation of the Act.

Rates policy development and adoption including categorization of properties for the purpose of compiling the valuation roll.

Compilation of the valuation roll in order to determine the market value of properties so as to inform the determination of a reasonable amount in a Rand to be determined in respect of the various categories of rateable property taking into account the budget.

Tabling of the municipal budget accompanied by an adopted rates policy in terms of section 3 (2) of the Act.

(2) Section 3 (3) (e) of the Act must be complied with by providing a general description of that which may be foregone by the municipality without quantifying it in Rand & Cent

The council of a municipality must adopt a policy consistent with the present Act and amended Act on the levying of rates on rateable property in the municipality.

Such a rates policy will take effect on the effective date of the first valuation roll prepared by the municipality in terms of the present Act, and such policy must accompany the municipality's budget for the financial year concerned when that budget is tabled in the council in terms of the requirements of the Municipal Finance Management Act.

A rates policy must treat persons liable for rates equitably determine the criteria to be applied by the municipality if it: levies different rates for different categories of property; exempts a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate on their properties; grants 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 rate payable in respect of their properties; or increases rates;

determine or provide criteria for the determination of categories of properties for the purposes of levying different rates, and categories of owners of properties, or categories of properties, for the purpose of granting exemptions, rebates and reductions;

determine how the municipality's powers in terms of Section 9 must be exercised in relation to properties used for multiple purposes;

identify and quantify in terms of cost to the municipality and any benefit to the local community, exemptions, rebates and reductions; exclusions; and rates on properties that must be phased in, in terms of Section 21;

take into account the effect of rates on the poor and include appropriate measures to alleviate the rates burden on them;

take into account the effect of rates on organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax reductions because of those activities, in the case of property owned and used by such organisations for those activities;

take into account the effect of rates on public service infrastructure;

allow the municipality to promote local, social and economic development; and

identify, on a basis as may be prescribed, all rateable properties in the municipality that are not rated in terms of Section 7.

When considering the criteria to be applied in respect of any exemptions, rebates and reductions on properties used for agricultural purposes, a municipality must take into account:

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

Any exemptions, rebates or reductions granted and provided for in the rates policy adopted by a municipality must comply and be implemented in accordance with a national framework that may be prescribed after consultation with organized local government.

No municipality may grant relief in respect of the payment of rates to:

- a category of owners of properties, or to the owners of a category of properties, other than by way of an exemption, rebate or reduction as provided for in its rates policy and granted in terms of Section 15 of the present Act; or
- the owners of properties on an individual basis.

#### **SECTION 4: COMMUNITY PARTICIPATION**

Before a municipality adopts its rates policy, the municipality must follow the process of community participation envisaged in Chapter 4 of the Municipal Systems Act; and comply with the following requirements, as set out below.

The municipal manager of the municipality must:

- conspicuously display the draft rates policy for a period of at least 30 days at the municipality's head and satellite offices and libraries, and, if the municipality has an official website or a website available to it, on that website as well; and
- publish in the media a notice stating that a draft rates policy has been prepared for submission to the council, and that such policy is available at the various municipal offices for public inspection, and (where applicable) is also available on the relevant website; and inviting the local community to submit comments and representations to the municipality within a period specified in the notice, but which period shall not be less than 30 days.

The council must take all comments and representations made to it into account when it considers the draft rates policy.

#### **SECTION 5: ANNUAL REVIEW OF RATES POLICY**

The council must annually review, and – if needed – amend its rates policy. Any amendments to the rates policy must accompany the municipality's annual budget when it is tabled in the council in terms of the Municipal Finance Management Act. When the council decides to amend the rates policy, community participation must be allowed for as part of the municipality's annual budget process.

#### **SECTION 6: BY-LAWS TO GIVE EFFECT TO RATES POLICY**

A municipality must adopt and published by-laws, in terms of section 12 and 13 of the Municipal Systems Act, to give effect to the implementation of its rates policy, and such by-laws may differentiate between different categories of properties, and different categories of owners of properties liable for the payment of rates.

#### **SECTION 7: RATES TO BE LEVIED ON ALL RATEABLE PROPERTY**

When levying rates a municipality must, subject to subsection (2) levy such rates on all rateable property in its area but it is nevertheless not obliged to levy rates on:

- properties of which the municipality itself is the owner;
- public service infrastructure;
- rights registered against immovable property in the name of a person;
- properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure attributable to past racially discriminatory laws or practices or

The requirement to levy rates on all rateable properties does not prevent a municipality from granting exemptions or rebates on, or reductions in rates levied.

**SECTION 8: DIFFERENTIAL RATES**

Subject to section 19, a municipality may, in terms of the criteria set out in its rates policy levy different rates for different categories of rateable property, determined in subsection (2) and (3), which must be determined according to the:

use of the property;  
permitted use of the property; or  
a combination of (a) and (b)

A municipality must determine the following categories of rateable property in terms of subsection (1): Provided such property category exists within the municipal jurisdiction:

residential properties  
industrial properties  
business and commercial properties

farm properties used for:  
agricultural purposes  
other business and commercial purposes  
residential purposes  
Industrial  
eco-tourism  
game farming & -hunting  
purposes other than those specified above  
farm properties not used for any purpose

smallholdings used for:  
agricultural purposes  
residential purposes  
industrial purposes  
business and commercial purposes  
eco-tourism  
game farming & -hunting  
purposes other than those specified above

state owned properties  
municipal properties  
public service infrastructure  
public service purpose  
privately owned towns serviced by the owner  
formal and informal settlements  
communal land  
state trust land  
properties acquired through the provision of Land Assistance Act 1993 or the Restitution of Land Rights Act 1994 or which is subject to the Communal Property Associations Act 1996  
protected areas  
properties on which national monuments are proclaimed  
properties owned by public benefit organisations and used for any specific public benefit activities  
properties used for multiple purposes.

**SECTION 9: PROPERTIES USED FOR MULTIPLE PURPOSES**

A property used for multiple purposes must, for rates purposes, be assigned to a category determined by the municipality for properties used for a purpose corresponding with the permitted use of the property, if the permitted use of the property is regulated; a purpose corresponding with the dominant use of the property; or multiple purposes, as specified in Section 8 above.

A rate levied on a property assigned to a category of properties used for multiple purposes must be determined by:

apportioning the market value of the property, in a manner as may be prescribed to the different purposes for which the property is used; and  
applying the rates applicable to the categories determined by the municipality for properties used for those purposes to the different market value apportionments.

#### **SECTION 10: LEVYING OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES**

A rate on a property, which is subject to a sectional title scheme, must be levied on the individual sectional title units in the scheme, and not on the property on a whole.

#### **SECTION 11: AMOUNT DUE FOR RATES**

A rate levied by a municipality on property must be stated as an amount in the rand:  
on the market value on the property;  
in the case of public service infrastructure, on the market value of the public service infrastructure less 30% of that value;  
in the case of property to which Section 17(1)(h) applies, on the market value of the property less the amount stated in that section (note the section concerned deals with the requirement that the first R15 000 of the market value of certain properties is not rateable or on such other amount as the minister may determine in terms of section 17(3))

#### **SECTION 12: PERIODS FOR WHICH RATES MAY BE LEVIED**

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

The levying of rates forms part of the municipality's annual budget process, and the municipality must therefore annually, at the time of its budget process, review the amount in the rand of its current rates in line with the annual budget for the next financial year.

#### **SECTION 13: COMMENCEMENT OF RATES**

A rate becomes payable as from the start of the particular financial year, or if the municipality's annual budget is not approved by the start of the financial year, as from such later date when the municipality's annual budget, including the resolution levying the rates, is approved by the provincial executive in terms of section 26 of the Municipal Finance Management Act.

#### **SECTION 14: PROMULGATION OF RESOLUTIONS LEVYING RATES**

A rate is levied by a municipality by a resolution passed by the council with a supporting vote of a simple majority of its members.

The resolution for levying the rates must be annually promulgated within 60 days from the date of the resolution by publishing the resolution in the provincial gazette.

The resolution must contain the following details:

- the date on which the the resolution levying rates was passed
- differentiate between categories of properties; and
- reflect the cent amount in the Rand rate for each category of property

Whenever a municipality passes a resolution to levy rates, the municipal manager must, without delay, conspicuously display the resolution for a period of at least 30 days at the municipality's head and satellite offices and libraries, and if the municipality has an official website or a website is available to it, on that website as well; and advertise in the media a notice stating that the resolution levying the property rates has been passed by the council, and that the resolution is available at the municipality's head and satellite offices as so forth.

#### **SECTION 15: EXEMPTIONS, REDUCTIONS AND REBATES**

A municipality may in terms of the criteria, which it has set out in its rates policy:  
exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of the rate levied on their property; or  
grant to a specific category of owners, 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.

In granting exemptions, reductions and rebates in respect of owners or categories of properties, a municipality may determine such categories in accordance with Section 8(2) and subsection (2A) of the Act, and when granting exemptions, reductions or rebates in respect of categories of owners of properties, such categories may include:

indigent owners;

owners dependent on pensions or social grants for their livelihood including owners of properties within the income group of pensions or social grants

owners temporarily without income;

owners of property situated within an area affected by a disaster or any other serious adverse social or economic conditions;

owners of residential properties with a market value lower than an amount determined by the municipality; and owners of agricultural properties who are bona fide farmers.

In addition to the categories of rateable property determined in terms of section 8(2), a municipality may, subject to any ratio determined in terms of section 19, for the purposes of granting exemptions, rebates and reductions, determine such category based on;

properties used for public service purposes; and

properties to which the provisions of the National Heritage Resources Act, no 25 of 1999 apply, or an institution that has been declared to be subject to the Cultural Institutions Act, no 119 of 1998

The municipal manager must annually table in the council a list of all exemptions, reductions and rebates granted by the municipality during the previous financial year; and

a statement reflecting the income, which the municipality has forgone during the previous financial year by way of such exemption, reductions and rebates, Projections regarding revenue to be forgone for a financial year in relation to subsection 3(b) must be reflected in the municipality's annual budget for that year as income on the revenue side and expenditure on the expenditure side.

#### **SECTION 16: CONSTITUTIONALLY IMPERMISSIBLE RATES**

In terms of section 229(2)(a) of the Constitution, a municipality may not exercise its power to levy rates on property in a manner that materially and unreasonably prejudices national economic policies, economic activities across its boundaries, or the national mobility of goods, services, capital and labour.

If a rate on a specific category of properties, or a rate on a specific category of owners of properties above a specific amount in the rand, is materially and unreasonably prejudicing any of the matters referred to above, the Minister of Provincial and Local Government with concurrence of the Minister of Finance, must, by notice in the gazette, give notice to the relevant municipality that the rate must be limited to an amount in the rand specified in the notice.

#### **SECTION 17: OTHER IMPERMISSIBLE RATES (ABRIDGED)**

A municipality may not levy a rate on:

subject to paragraph (aA) the first 30% of the market value of public service infrastructure;

any property referred to in paragraphs (a), (b), (e), (g) and (h) of the definition of "public service infrastructure"

any part of the seashore;

any part of the territorial waters of the Republic;

any islands of which the state is the owner;

those parts of a special nature reserve, national park or nature reserve within the meaning of the National Environmental Management Protected Areas Act, 2003 (Act no. 57 of 2003),

of a national botanical garden which are not developed or used for commercial, business, agricultural or residential purposes, (Act 2004, no. 10);

on mining rights or a mining permit

property belonging to a land reform beneficiary or his or her heirs, dependants or spouse provided that this exclusion lapses 10 years from the date on which such beneficiary's title was registered in the office of the registrar of deeds; or

upon alienation of the property by the land beneficiary or his or her heirs, dependants or spouse  
 the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll to a category determined by the municipality for residential purposes; or  
 for properties used for multiple purposes, provided one or more components of the property are used for residential purposes; or  
 on a property registered in the name of and used primarily as a place of public worship by a religious community, including the official residence registered in the name of that community which is occupied by the office-bearer of that community and who officiates at services at that place of workshop.  
 The exclusion from rates of a property referred to in subsection (1)(b) lapses; if the property is alienated or let: or as determined in section 17(1A)

The remainder of this Section deals with situations where the various exemptions lapse: eg (section 17(2)(b) and section 17(5)(b))

#### **SECTION 18: EXEMPTION OF MUNICIPALITIES FROM PROVISIONS OF SECTION 17**

The municipality may apply in writing to the Minister for Provincial and Local Government to be exempted from applying the exemptions granted in respect of the first 30% of the market value of public infrastructure, the exemptions on nature reserves, national parks and national botanical gardens, the exemption on property belonging to land beneficiaries, and the exemption applying to the first R15 000 of the market value of residential and multiple used property. If the municipality can demonstrate that such exclusions are compromising or impeding its ability or right to exercise its powers or perform its functions within the meaning of the Constitution.

#### **SECTION 19: IMPERMISSIBLE DIFFERENTIATION**

A municipality may not levy:

different rates on residential properties, except as provided for in sections 11(2), 21 and 89A provided that this paragraph does not apply to residential properties that is vacant

where transitional arrangements apply or where some of the properties are newly rateable as [provided for in terms of section 11(i) (b) and section 89 of the act supra. a rate on non-residential properties that exceeds a prescribed ratio to the rate on residential properties;

rates which unreasonably discriminate between categories of non-residential properties; and

additional rates, except as provided for in Section 22.

The ratio referred to in subsection (1)(b) may be subject to prescribed norms and standards, and may only be prescribed with the concurrence of the Minister of Finance.

#### **SECTION 20: LIMITS ON ANNUAL INCREASES OF RATES**

The Minister of Provincial Local Government may, with the concurrence of the Minister of Finance and by notice in the gazette, set an upper limit on the percentage by which:

rates on property categories or a rate on a specific category of properties may be increased; or

the total revenue derived from rates on all property categories or a rate on a specific category of properties may be increased

Different limits may be set in terms of subsection (1) for different kinds of municipalities or different categories of properties (section 20(2))

The Minister may, on written application by a municipality, and on good cause, exempt a municipality from a limit set in terms of subsection (1).

This section must be read with section 43 of the Municipal Finance Management Act.

**SECTION 21: COMPULSORY PHASING IN OF CERTAIN RATES**

A rate levied on newly rateable property must be phased in over a period of three financial years.

Similarly, a rate levied on property owned by a land reform beneficiary must, after the exclusion period of ten years has lapsed, be phased in over a period of three financial years.

A rate levied on a newly rateable property owned and used by organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for those activities must be phased in over a period of four financial years.

The phasing in discount on a property referred to is subsection (1)(a) or (b) must - **in the first year**, be at least 75% of the rate for that year otherwise applicable to that property;

**in the second year**, be at least 50% of the rate for that year otherwise applicable to that property, and;

**in the third year**, be at least 25% of the rate for that year otherwise applicable to that property.

The phasing in discount on a property referred to is subsection (1) (c) must -

No rate may be levied during the first year on newly rateable property owned and used by organisations conducting specified public benefit activities. Thereafter the phasing in discount shall apply as for other newly rateable property except that the 75% discount shall apply to the second year, the 50% to the third year, and the 25% to the fourth year.

A rate levied on newly rateable property may not be higher than the rate levied on similar property or categories of property in the municipality.

**SECTION 22: SPECIAL RATING AREAS (ABRIDGED)**

A municipality may by a resolution of its council determine an area within that municipality as a special rating area, levy an additional rate on property in that area for the purpose of raising funds for improving or upgrading that area, and differentiate between categories of properties when levying such additional rate.

For determining such a special rating area, the municipality must undertake a prescribed process of consultation with the local community, and obtain the consent of the majority of the members of the local community in the proposed special rating area who will be liable for paying the additional rate.

The levying of an additional rate may not be used to reinforce existing inequities in the development of the municipality, and any determination of a special rating area must be consistent with the objectives of the municipality's IDP.

**SECTION 23: REGISTER OF PROPERTIES**

The municipality must draw up and maintain a register in respect of all properties situated within that municipality, dividing such register into a part A and a part B.

Part A of the register consists of the current valuation roll of the municipality, including any supplementary valuation rolls prepared from time to time.

Part B of the register specifies which properties on the valuation roll or any supplementary valuation rolls are subject to:

an exemption from rates in terms of Section 15 of the present Act;

a rebate on or a reduction in the rate in terms of Section 15;

a phasing in of the rate in terms of Section 21; and

an exclusion referred to in Section 17.

The register must be open for inspection by the public during office hours, and if the municipality has an official website or a website available to it, the register must also be displayed on that website.

The municipality must at regular intervals, but at least annually, update part B of the register.

**SECTION 24: PROPERTY RATES PAYABLE BY OWNERS**

The owner of the property must pay a rate levied by a municipality on property.

Joint owners of a property are jointly and severally liable for the amount due for rates on that property.

In the case of agricultural property owned by more than one owner in undivided shares, the municipality must consider whether in the particular circumstances it

would be more appropriate for the municipality to hold any one of the joint owners liable for all rates levied in respect of the agricultural property, or to hold any joint owner only liable for that portion of the rates levied on the property that represent that joint owner's undivided share in the agricultural property.

#### **SECTION 25: PAYMENT OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES**

The rate levied by a municipality on a sectional title unit is payable by the owner of the unit, or the holder of the right contemplated in section 25 or 27 of the Sectional Titles Act

The municipality may not recover the rate on such sectional title unit, or on a right contemplated in section 25 or 27 of the Sectional Titles Act registered against the sectional title unit, or any part of such rate, from the body corporate controlling the sectional title scheme, except when the body corporate itself is the owner of any specific sectional title unit, or the holder of such right

A body corporate controlling a sectional title scheme may not apportion and collect rates from the owners of the sectional title units in the scheme

#### **SECTION 26: METHOD AND TIME OF PAYMENT**

A municipality must recover a rate on a monthly basis, or less often as may be prescribed in terms of the Municipal Finance Management Act, or annually, as may be agreed to with the owner of the property.

If the rate is payable in a single annual amount, it must be paid on or before a date determined by the municipality. If the rate is payable in instalments, it must be paid on or before a date in each period determined by the municipality.

*Payment of rates may be deferred but only in special circumstances*

#### **SECTION 27: ACCOUNTS TO BE FURNISHED**

A municipality must furnish each person liable for the payment of a rate with a written account specifying:

the amount due for rates payable;

the date on or before which the amount is payable;

how the amount was calculated;

the market value of the property;

if the property is subject to any compulsory phasing in discount in terms of Section 21(a)(b) or (c), the amount of the discount, and

if the property is subject to any additional rate in terms of Section 22, the amount due for additional rates.

A person liable for rates must furnish the municipality with an address where correspondence can be directed to

**The person liable for payment of the rates remains liable for such payment whether or not such person has received a written account from the municipality.** If the person concerned has not received a written account, that person must make the necessary enquiries from the municipality.

#### **SECTION 28: RECOVERY OF RATES IN ARREARS FROM TENANTS AND OCCUPIERS**

If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined for payment by the municipality, the municipality may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after it has served a written notice on such tenant or occupier.

The amount that the municipality may recover from the tenant or occupier is limited to the amount of the rent or other money due or payable, but not yet paid, by such tenant or occupier to the owner of the property.

#### **SECTION 29: RECOVERY OF RATES FROM AGENTS**

A municipality may recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the municipality, but only after the municipality has served a written notice on the agent in this regard.

The amount that the municipality may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any commission due to the agent.

### **SECTION 30: GENERAL VALUATION AND PREPARATION OF VALUATION ROLLS**

A municipality intending to levy a rate on property must cause a general valuation to be made of all properties in the municipality, and must prepare a valuation roll of all properties in terms of such valuation.

All rateable properties in a municipal area must be valued during such general valuation, including those properties partially excluded from rates in terms of Section 17(1)(a) and (h) of the Act provided that properties referred to in section 7(2)(a) must be valued only to the extent that the municipality intends to levy a rate on those property

***However, if the municipality does not intend to levy rates on its own property, on public service infrastructure owned by a municipal entity, on rights in properties, and on properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racial discrimination, the municipality is not obliged to value such properties as part of the valuation process.***

A municipality may also apply to the Minister for exemption from the obligation to value properties excluded from rates in terms of Section 17(1)(e), (g) and (i) if the municipality can demonstrate that the valuation of such properties is too onerous for it, given its financial and administrative capacity.

Properties, which have not been valued, because of any of the foregoing considerations, must nevertheless be included in the valuation roll.

### **SECTION 31: DATE OF VALUATION**

For the purposes of a general valuation, a municipality must determine a date that may be not more than 12 months before the start of the financial year in which the valuation roll is to be first implemented.

The general valuation must reflect the market values of properties in accordance with market conditions, which apply as at the date of the valuation, and in accordance with any other applicable provisions of the present Act.

### **SECTION 32: COMMENCEMENT AND PERIOD OF VALIDITY OF VALUATION ROLLS (ABRIDGED)**

A valuation roll takes effect from the start of the financial year following completion of the public inspection period required by the present Act, section 49 and remains valid for that financial year or for one or more subsequent financial years, as the municipality may decide, but in total not for more than;

four financial years in respect of a metropolitan municipality; and

five financial years in respect of a local municipality

Section 32(2) provides for the extension of the period of validity of the valuation roll by the MEC for Local Government but;

a metropolitan municipality, to five financial years and;

a local municipality, to seven financial years

### **SECTION 34: FUNCTIONS OF MUNICIPAL VALUER**

The valuer of a municipality must in accordance with this act value all properties as determined in terms of section 30(2)

The municipal valuer must also submit a monthly progress report to the municipal manager on the valuation of properties, regardless of whether properties are valued in terms of section 45(2)(a) or in terms of a combination of section 45(2)(a) and (b)

Prepare a valuation roll of all properties in the municipality determined in terms of section 30(3);

Sign and certify the rolls ;

Submit valuation rolls to the municipal manager within a prescribed period;

Consider and decide on objections to the valuation roll

Attend every meeting of an appeal board;

Prepare a supplementary valuation roll whenever this becomes necessary;  
Assist the municipality in the collection of postal addresses of owners when valuing properties;  
Generally provide the municipality with appropriate administrative support incidental to the valuation roll

#### **SECTION 42: ACCESS TO INFORMATION**

A municipal valuer or assistant municipal valuer may require the owner, tenant / occupier, agent of owner, the body corporate controlling a sectional title scheme or the share block company in respect of a share block scheme or the management association in respect of a property time-sharing scheme to give the valuer access to any documents or information in possession of the owner, tenant/occupier, agent of owner, the body corporate controlling a sectional title scheme or the share block company in respect of a share block scheme or the management association in respect of a property time-sharing scheme

#### **SECTION 46: GENERAL BASIS OF VALUATION (ABRIDGED)**

The market value of a property is the amount the property would have realised if sold on the date of valuation in the open market by a willing seller to a willing buyer.

In determining the market value of a property the following must be disregarded for purposes of valuing the property;  
any building or other immovable structure under the surface of the property which is the subject matter of any mining authorisation or mining right defined in Act 2002, no 28

#### **SECTION 47: VALUATION OF PROPERTY IN SECTIONAL TITLE SCHEMES**

When valuing a property, which is subject to a sectional title scheme, the valuer must determine the market value of each sectional title unit in the scheme.

#### **SECTION 55: ADJUSTMENTS OR ADDITIONS TO VALUATION ROLLS**

If an adjustment in the valuation of the property affects the amount due for rates payable on that property, the municipal manager **must**; **recover** from the person liable for the payment of rates the difference **without adding interest** on the amount due; **or** **repay** to the person who made the payment the difference determined in terms of paragraph (a) **plus interest** at the prescribed rate

#### **SECTION 77: GENERAL**

A municipality must regularly, but at least once a year, update its valuation roll by causing a supplementary valuation roll to be prepared, or the valuation roll itself to be amended.

#### **SECTION 80: CONDONATION OF NON-COMPLIANCE WITH TIME PERIODS:**

The MEC for local government in a province may, on good cause shown, and on such conditions as the MEC may impose, condone any non-compliance by a municipality with a provision of this Act requiring any act to be done within a specified period or permitting any act to be done only within a specific period.

Non-compliance with section 21, 23 or 32 may not be condoned in terms of subsection (1)

The powers conferred in terms of this section on an MEC for local government may only be exercised within a framework as may be prescribed.

#### **SECTION 81: PROVINCIAL MONITORING:**

The MEC for local government in a province must monitor whether municipalities in the province comply with the provisions of this Act

If the municipality fails to comply with the provisions of this Act, the MEC may take any appropriate steps to ensure compliance, including proposing an intervention by the provincial executive in terms of section 139 of the Constitution.

**SECTION 82A: REPORTING TO MINISTER BY MUNICIPALITIES**

A municipality must submit reports, in such form and at such intervals as may be prescribed by the minister on the implementation of provisions of the Act relating to the following matters in this section

**SECTION 82B: REPORTING TO MINISTER BY MEC'S**

The MEC for local government must submit reports in such form and at such intervals as may be prescribed to the minister relating the following matters in this section

**SECTION 87: APPLICATION WHEN IN CONFLICT WITH OTHER LAWS**

This Act prevails in the event of any inconsistency between this Act and any other legislation regulating the levying of municipal rates

**SECTION 93A: TRANSITIONAL ARRANGEMENT: PUBLIC SERVICE INFRASTRUCTURE;**

The prohibition on the levying of rates on public service infrastructure referred in section 17(1)(aA) must be phased in over a period of five municipal financial years, with effect from the date of commencement of this Act. The rates levied on property referred to in subsection (1) must not be more than;

80 % in the first year

60 % in the second year

40 % in the third year

20 % in the fourth year

10 % in the fifth year

**SECTION 93B: TRANSITIONAL ARRANGEMENT: DIFFERENTIAL RATES:**

The provisions of section 8 must be applied by a municipality within seven years of the date of commencement of this Act

**SECTION 96: SHORT TITLE AND COMMENCEMENT**

This is the amended Rates policy in terms of the Local Government Municipal Property Rates Act, Act 6 of 2004 as amended in 2014, (Act 29 of 2014).

In terms of section 3 of the above Act, this policy shall come into operation on 01 July 2016.

*"Working together in good governance"*

**MR A PAULSE**  
**ACTING MUNICIPAL MANAGER**  
*Date published: 2016-06-17&18*

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# OUDTSHOORN MUNICIPALITY

## BY – LAW RELATING TO PROPERTY RATES

**Council Resolution No: 60.7/05/16**

**Date: 26 May 2016**

**OUTSHOORN LOCAL MUNICIPALITY**

**THIRD AMENDED PROPERTY RATES BY-LAW**

**1. PREAMBLE:**

- (1) Section 229(1) of the Constitution authorises a municipality to impose rates on property and surcharges on fees for services provided by or on behalf of the municipality.
- (2) In terms of section 3 of the Property Rates Act, a municipal council must adopt a policy consistent with the Property Rates Act on the levying of rates on rateable property in the municipality.
- (3) In terms of section 6(1) of the Property Rates Act, a municipality must adopt by-laws to give effect to the implementation of the rates policy.
- (4) In terms of section 6(2) of the Property Rates Act, by-laws adopted in terms of section 6(2) may differentiate between different categories of properties, and different categories of owners of properties liable for the payment of rates.

**2. INTERPRETATION:**

In this by-law, the English text shall prevail in the event of any conflict with the Afrikaans text, and unless the context otherwise indicates:-

**“Constitution”** means the Constitution of the Republic of South Africa;

**“Credit Control and Debt Collection By-Law and Policy”** means the municipality’s Credit Control and Debt Collection By-Law and Policy as required by sections 96(b), 97 and 98 of the Municipal Systems Act;

**“Municipality”** means the Municipality of Oudtshoorn;

**“Municipal Rates Policy”** means the Rates Policy adopted by the Municipal Council in terms of this By-Law;

**“Property Rates Act”** means the Local Government: Property Rates Act, 6 of 2004 & amended act 29 of 2014;

**“Rate”** or **“Rates”** means a municipal rate on property as envisaged in section 229 of the Constitution.

**3. ADOPTION AND IMPLEMENTATION OF RATES POLICY:**

- (1) The Municipality shall adopt and implement a rates policy consistent with the Property Rates Act on the levying of rates on rateable property in the municipality.
- (2) The Municipality shall not be entitled to levy rates other than in terms of a valid rates policy.

#### **4. CONTENTS OF RATES POLICY:**

The Municipality's rates policy shall, *inter alia*:

- (1) Apply to all rates levied by the Municipality pursuant to the adoption of the Municipality's annual budget;
- (2) Comply with the requirements for:-
  - (a) the adoption and contents of a rates policy as contemplated in section 3 of the Property Rates Act;
  - (b) the process of community participation as contemplated in section 4 of the Property Rates Act;
  - (c) the annual review of the rates policy as contemplated in section 5 of the Property Rates Act;
- (3) Contemplate any further principles, criteria and implementation measures consistent with the Property Rates Act for the levying of rates which the Municipality may wish to adopt;
- (4) Include such further enforcement mechanisms, if any, as the Municipality may wish to impose in addition to those contained in the Credit Control and Debt Collection By-Law and Policy.

#### **5. ENFORCEMENT OF RATES POLICY:**

The Municipality's rates policy shall be enforced through the Credit Control and Debt Collection By-Law and Policy and any further enforcement mechanisms stipulated in the rates policy.

#### **6. EFFECTIVE DATE:**

This By-Law shall take effect on 01 July 2016, and after it is been promulgated in the Government Gazette.

## **OUDTSHOORN PLAASLIKE MUNISIPALITEIT**

### **TWEEDE GEWYSIGDE VERORDENING OP EIENDOMS BELASTING**

#### **1. AANHEF:**

- (1) Artikel 229(1) van die Grondwet magtig 'n munisipaliteit om eiendomsbelasting en bobelasting op gelde vir dienste deur of namens die munisipaliteit verskaf, op te lê.
- (2) Ingevolge artikel 3 van die Wet op Eiendomsbelasting moet 'n munisipale raad 'n beleid in ooreenstemming met artikel 3 van die Wet op Eiendomsbelasting oor die heffing van belasting op belasbare eiendom in die munisipaliteit aanvaar.
- (3) Ingevolge artikel 6(1) van die Wet op Eiendomsbelasting moet 'n munisipaliteit verordeninge aanvaar om uitwerking te gee aan die inwerkstelling van sy beleid oor belasting.
- (4) Ingevolge artikel 6(2) van die Wet op Eiendomsbelasting mag verordeninge wat ingevolge artikel 6(2) aanvaar is, tussen verskillende kategorieë eiendomme, en verskillende kategorieë eienaars van eiendomme wat aanspreeklik is vir die betaling van belasting, differensieer.

#### **2. UITLEG:**

In hierdie Verordening geld die Engelse teks en in die geval van enige teenstrydigheid met die Afrikaans teks, en, tensy die konteks anders aandui, beteken:-

“**Belasting**” of “**Belasting**” 'n munisipale belasting op eiendom soos beoog in artikel 229 van die Grondwet;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika;

“**Munisipaliteit**” die Munisipaliteit Oudtshoorn;

“**Munisipaliteit se belastingbeleid**” 'n belastingbeleid wat deur die munisipaliteit ingevolge hierdie verordening aanvaar is;

“**Verordening op en Beleid oor Kredietbeheer en Skuldinvordering**” die Munisipaliteit se Verordening op en Beleid oor Kredietbeheer en Skuldinvordering ingevolge artikels 96(b), 97 en 98 van die Munisipale Stelselwet;

“**Wet op Eiendomsbelasting**” die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting No 6 van 2004 asook gewysigde No 29 van 2014.

#### **3. AANVAARDING EN INWERKINGSTELLING VAN DIE BELASTINGBELEID:**

- (1) Die Munisipaliteit moet 'n belasting beleid in ooreenstemming met die Wet op Eiendomsbelasting vir die heffing van belasting op belasbare eiendom in die munisipaliteit aanvaar en in werking stel.
- (2) Die Munisipaliteit is nie geregtig om belasting te hef behalwe ingevolge 'n geldige belastingbeleid nie.

#### 4. INHOUD VAN BELASTINGBELEID:

Die Munisipaliteit se belastingbeleid moet, onder meer:

- (1) Van toepassing wees op alle belastinge wat deur die Munisipaliteit gehef word nadat die munisipaliteit se jaarlikse begroting aanvaar is;
- (2) Voldoen aan die volgende vereistes:-
  - (a) die aanvaarding en inhoud van 'n belastingbeleid ingevolge artikel 3 van die Wet op Eiendomsbelasting;
  - (b) die proses van gemeenskapdeelname ingevolge artikel 4 van die Wet op Eiendomsbelasting;
  - (c) die jaarlikse hersiening van 'n belastingbeleid ingevolge artikel 5 van die Wet op Eiendomsbelasting;
- (3) Die spesifisering van enige verdere beginsels, maatstawwe en maatreëls in ooreenstemming met die Wet op Eiendomsbelasting vir die heffing van belastinge wat die Munisipaliteit mag wens om te aanvaar;
- (4) Die insluiting van sodanige verdere toepassingmeganismes, indien enige, wat die Munisipaliteit mag wens om op te lê bykomend tot daardie in die Verordening op en Beleid oor Kredietbeheer en Skuldinvordering vervat.

#### 5. TOEPASSING VAN DIE BELASTINGBELEID:

Die Munisipaliteit se belastingbeleid moet deur middel van die Verordening op en Beleid oor Kredietbeheer en Skuldinvordering en enige verdere toepassingsmeganismes ingevolge die Munisipaliteit se belastingbeleid toegepas word.

#### 6. EFFEKTIEWE DATUM:

Hierdie Verordening tree in werking op 1 Julie 2016 en sodra dit in die Provinsiale Staatskoerant afgekondig was.

*“Working together in good governance”*

**MR A PAULSE**  
**ACTING MUNICIPAL MANAGER**  
*Date published: 2016-06-17&18*

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# OUDTSHOORN MUNICIPALITY

## BY- LAW RELATING TO MUNICIPAL TARIFFS

**Council Resolution No: 60.07/05/16**

**Date: 26 May 2016**

## **PREAMBLE**

**Whereas** the council of the municipality must, in terms of section 74(1) of the Local Government: Municipal Systems Act, 32 of 2000, adopt and implement a tariff policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements and which complies with the provisions of the Local Government: Municipal Systems Act, 32 of 2000, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation;

**Whereas** the council of the municipality must, in terms of section 75(1) of the Local Government: Municipal Systems Act, 32 of 2000, adopt by-laws to give effect to the implementation and enforcement of its tariff policy.

**Whereas** the council of the municipality is obliged to strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner;

**The council adopts** this By-law and be it therefore enacted by the municipality as follows:

### **1. Definitions –**

In this by-law, the singular includes the plural and vice versa unless the context otherwise indicates;

**"community services "** means services rendered by the municipality, which include, but are not limited to, street cleaning, grass cutting and the operation of community halls and cemeteries;

**"consumer"** means any person resident within the municipal area and utilising services provided by the municipality;

**"economic services"** means services such as refuse removal and sanitation that the municipality renders for consumers;

**"indigent household"** means a household receiving a subsidy from the municipality in terms of its indigent support programme;

**"municipality"** or "municipal area" shall, where appropriate, mean the geographic area, determined in terms of the Local Government: Municipal Demarcation Act No. 27 of 1998 as the municipal area pertaining to the municipality.

**"municipal council"** or **"council"** means the municipal council of the municipality as referred to in terms of Section 157(1) of the Constitution;

**"municipal manager "** means a person appointed in terms of Section 82 of the Municipal Structures Act, 1998 [ Act No. 117 of 1998];

**"municipal services"** means a service rendered by the municipality as defined in the Municipal Systems Act and includes community, economic and trading services;

**"Municipal Finance Management Act"** means the Local Government: Municipal Finance Management Act, 2000 [Act No. 53 of 2003], as amended from time to time;

**"Municipal Systems Act"** means the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], as amended from time to time;

**"Municipal Structures Act"** means the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], as amended from time to time;

**"subsidised services"** means community services or such other services that the municipality may render for the benefit of consumers;

**"tariff"** means the rate at which fees for municipal services will be determined;

**"trading services"** means services such as water and electricity that the municipality renders to consumers.

**2. Application of by-law** – This by-law shall only apply in respect of municipal services rendered by the municipality itself, or by an external mechanism in terms of a service delivery agreement, within the municipal area.

**3. Objective and principles of the tariff framework for municipal services**

- (1) Tariffs must reflect the costs reasonably associated with the rendering of the service, in order to facilitate the financial sustainability of the service.
- (2) Services must be rendered in a manner that is economical, efficient and indicative of an effective use of resources.
- (3) Tariffs should be applied consistently and in an equitable manner to all consumers within the municipal area.
- (4) Tariffs may differentiate between different categories of consumers, municipal services and service standards as long as such differentiation does not amount to unfair discrimination.

- (5) Tariffs may make special provisions for certain categories of commercial and industrial consumers in order to promote local economic development.
- (6) Indigent households must have access to a minimum, nationally specified, level of service, provide that –
  - (a) the cost of such service shall be recovered through –
    - (i) tariffs that recover operating and maintenance costs;  
or
    - (ii) special tariffs for low levels of use of consumption;  
and
  - (b) the municipality may subsidise such service by means of any direct or indirect method permitted by law.
- (7) In the event of indigent households and other categories of users being subsidised, the extent of subsidisation must be fully disclosed.

#### **4. Determination of tariffs**

- (1) In determining tariffs for municipal services, the municipality shall ensure that –
  - (a) provision is made for working capital reserves to be maintained at optimum levels; and
  - (b) contributions to funds and other reserves are maintained at specified levels.

- (2) The municipal council shall determine a process for the setting of tariffs, which shall take into consideration the following –
  - (a) the level of service delivery based on the availability thereof and the condition of the current infrastructure;
  - (b) the level of services required to meet the reasonable expectations of consumer groups;
  - (c) an analysis of the costs of providing services;
  - (d) an analysis of the subsidy level framework;
  - (e) the revenue generating capacity to recover the cost of services; and
  - (f) the affordability of services to various consumer groups.
- (3) In setting a tariff structure, the municipality shall ensure that the tariff fairly reflects the costs of providing the service.
- (4) In respect of –
  - (a) trading service tariffs, the municipality must ensure that the service yields a trading surplus not exceeding an amount to be determined by resolution of the municipality;
  - (b) economic service tariffs, the full cost of the service should be recovered without any deficit;

- (c) subsidised service tariffs, the municipality shall ensure that the cost of operating, maintaining and upgrading the municipal asset is recovered; and
- (d) community service tariffs, the service may be rendered without a compensatory tariff, provided that the municipality may however, in its discretion, levy a charge.

## **5. Subsidisation of tariffs**

- (1) In order to comply with its obligation to reflect the extent of subsidisation of tariffs for indigent households, the municipality shall ensure that the generation of revenue for subsidies and their disbursement is conducted in a transparent, equitable and efficient manner.
- (2) The municipality shall, in its annual financial statements, reflect:
  - (a) the source of revenue for financing subsidies; and
  - (b) the benefit provided to each consumer receiving a subsidy.

## **6. Review of tariff policy and tariffs**

Council shall review the official tariff policy as well as the applicable tariffs for services prior to the adoption of its annual budget.

## **7. Procedure for the implementation of tariffs**

- (1) Prior to the implementation of any tariff, it shall first be approved by the passing of a resolution to this effect by the majority of the members of Council.
- (2) Once Council has passed such resolution, the municipal manager shall display a copy of the resolution at the main administrative offices of the municipality or such other places as he or she may determine, for a period of at least 30 days.
- (3) The municipal manager must further publish a notice in the local newspaper, stating that –
  - (a) the municipality has passed the resolution referred to in subsection (1);
  - (b) the resolution is available for inspection during office hours; and
  - (c) the date upon which the tariff will come into operation is the date indicated.
- (4) If possible, the contents of the notice referred to in (3) must be conveyed to the local community by radio broadcasts, covering the municipal area.
- (5) The municipal manager must forthwith send a copy of the notice to the Member of the Executive Committee for Local Government in the Province of Western Cape.

- (6) The provisions of this section must be interpreted and applied in accordance with the requirements of sections 21 and 21A of the Municipal Systems Act.

## **8. Regulations**

The municipality may make regulations not inconsistent with this by-law, prescribing –

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

## **9. Repeal of by-law**

Any by-law relating to a tariff framework in respect of the levying of fees for municipal services adopted by the municipal council or any municipal council it superseded, shall be repealed from the date of promulgation of this by-law.

## **10. Short title and commencement**

This by-law is called the By-law Relating to Municipal Tariffs, 2016 - 2017, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

*“Working together in good governance”*

**MR A PAULSE**  
**ACTING MUNICIPAL MANAGER**  
*Date published: 2016-06-17&18*

**CIVIC CENTER**  
**OUDTSHOORN**



## KENNISGEWING NR 56 VAN 2016

### BESLUIT VIR DIE HEF VAN EIENDOMSBELASTING VIR DIE JAAR JULIE 2016 TOT 30 JUNIE 2017

Kennis geskied hiermee ingevolge Artikel 14(1) en (2) van die Wet op Munisipale Eiendomsbelasting (Wet 6 van 2004) dat die Oudtshoorn Munisipale Raad by wyse van raadsbesluit nommer 60.7/05/16, soos vervat in die skedule die hef van Eiendomsbelasting tariewe goedgekeur het, vir implementering vanaf 1 Julie 2016. Die volledige tariewe lys is beskikbaar op die munisipale webtuiste [oudtshoorn@oudtmun.gov.za](mailto:oudtshoorn@oudtmun.gov.za) Kortings, waarvoor aansoek gedoen kan word, word onder voorgeskrewe omstandighede op koerse toegestaan. Die engels en isiXhosa tariewe lys is beskikbaar op versoek.

EIENDOMSBELASTING	2016/2017
	R BTW UITGESLUIT
Tarief per R1.00 waardasie	
1) Pensionarisse:	0.00720
Van toepassing op persone 60 en bo op 1 Julie met 'n inkomste van tussen R0 en R82 950. Die applikant moet die geregistreerde eienaar van die eiendom of die enigste erfgenaam in die geval van 'n afgestorwe boedel, of anders die <b>vruggebruiker</b> van die eiendom wat elke jaar op 1 Julie hernieubaar is, wees. Die eiendom moet deur die applikant bewoon word.	
2) Ongeskiktheidstoelae:	0.00654
Van toepassing op persone 60 en bo op 1 Julie met 'n inkomste van tussen R0 en R82 950. Die applikant moet die geregistreerde eienaar van die eiendom of die enigste erfgenaam in die geval van 'n afgestorwe boedel, of anders die <b>vruggebruiker</b> van die eiendom wat elke jaar op 1 Julie hernieubaar is, wees. Die eiendom moet deur die applikant bewoon word.	
3) Staatseiendom	0.01459
4) Verblyfsondernemings (Gastehuse, B&B's, Hotelle ens.)	0.01495
5) Verblyfsondernemings (Woonstelle) (15000 waardasie vrystelling) Art 17(1)(h) MPRA	0.01495
6) Residensiële eiendom	0.01088
7) Residensiële Vakant	0.01414
8) Besighede en Nywerhede	0.01495
9) Landelike Belasting - Bona fide boere	0.00218
10) Publieke Infrastruktuur	0.00273
11) Publike Infrastruktuur - Vrystelling Art 93(a) MPRA	0.00163
12) Landelike Residensiël	0.01088
13) Landelike Residensiël met verblyf vergunnings gebruik.	0.01495
14) Landelike Bona Fide met verblyf vergunnings verbruik	0.01495
15) Wildsplase ( Landelike + 50%)	0.00326
16) Publieke welsyns organisasies ( moet geregistreer wees by die SAID ingevolge bylae 9)	0.00273

17) Besighede by wyse van vergunningsgebruik (landelike ingesluit)	0.01495
18) Afwykende Verblyfsondernemings (nie R15 000 waardasie vrystelling nie)	0.01495
19) Plekke van aanbidding	
Eindomme gebruik vir aanbidding (ten volle vrygestel) + 1 woning op dieselfde perseel.	
Indien 2de woning op aparte eiendom geleë is, is daardie eiendom ten volle belasbaar soos normale beboude residensiële eiendomme.	

*“Saam werk in goeie regering”*

**MNR A PAULSE**  
**WAARNEMENDE MUNISIPALE BESTUUDER**  
*Datum gepubliseer: 2016-06-17&18*

**BURGERSENTRUM**  
**OUDTSHOORN**