



**MOLEMOLE
LOCAL MUNICIPALITY**

DRAFT BY-LAWS REGARDING PROPERTY RATES

To allow Council to exercise its power to value and impose rates on immovable properties located within its area of jurisdiction in such a manner that it will contribute to effective and economic service delivery to the entire community.

Preamble

WHEREAS the Constitution established local government as a distinctive sphere of government, interdependent, and interrelated with the national and provincial spheres of government; and

WHEREAS there is agreement on the fundamental importance of local government to democracy, development and nation-building in our country; and

WHEREAS there is fundamental agreement in our country on a vision of democratic, accountable and developmental local government, in which municipalities must strive within its financial and administrative capacity, to achieve their constitutional objectives by ensuring the provision of sustainable, effective and efficient municipal services to communities, by promoting social and economic development, by promoting a safe and healthy environment, and by encouraging the involvement of communities in the matters of local government; and

WHEREAS the Municipal Property Rates Act, No. 6 of 2004, authorizes and empowers municipalities to give effect to its Rates policy by adopting by-laws ;

BE IT THEREFORE ENACTED by the Municipal Council of the **MOLEMOLE** Local Municipality as follows:-

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1. Definitions

(1) For the purpose of these by-laws any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) shall bear the same meaning in these by-laws and unless the context indicates otherwise-

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

“**Agricultural purpose**” in relation to the use of a property, includes the use (of a property for the purpose of eco-tourism or for the trading in or hunting of game);

“**Annually**” means once every financial year;

“**Category**”, in relation to property, means a category of properties determined in terms of Section 5 and in relation to owners of properties, means a category of owners determined in terms of Section 6.

“**Child-headed household**” means a household where the main caregiver of the said household is younger than 21 years of age. Child-headed household means a household headed by a child as defined in the section 28(3) of the Constitution.

“**Exemption**” - in relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15 of the Act.

“**improved** “ , means , with regards to land or property, any building or structure of a permanent nature which has been erected in, on or over or under such land or property;

“Municipality” means the Molemole Local Municipality, and when referred to as –

(a) An entity, means Molemole Local Municipality as described in section 2 of the Local

Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

and

(b) a geographic area, means the municipal area of the Molemole Local Municipality as determined in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

(c) a person, means any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“Privately owned towns serviced by the owner” means single properties, situated in an area not ordinarily being serviced by the municipality, divided through sub division or township establishment into (ten or more) full title stands and/or sectional units and where all services inclusive of water, electricity, sewerage and refuse removal and roads development are installed at the full cost of the developer and maintained and rendered by the residents of such estate

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

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

(b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;

(c) power stations, power substations or power lines forming part of an electricity scheme serving the public;

(d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;

(e) railway lines forming part of a national railway system;

(f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;

(g) runways or aprons at national or provincial airports;

(h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;

(i) any other publicly controlled infrastructure as may be prescribed; or

(j) a right registered against immovable property in connection with infrastructure mentioned in paragraphs (a) to (i).

“Market value” in relation to a property, means the value of the property determined in accordance with section 46 of the Act.

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“Multiple purposes”, in relation to a property, means the use of a property for more than one purpose.

“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;

(a) 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;

(b) 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

(c) in relation to public service infrastructure referred to in paragraph (d) of the definition of **‘property’** means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of **‘publicly controlled’** determined by the Act,

Provided that a person mentioned below may for the purposes of this by-law 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) A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;

(vii) A lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or

(viii) A buyer in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer.

“Person” includes an organ of state

“Property” – means

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

(b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;

(c) a land tenure right registered in the name of a person or granted in terms of legislation; or

(d) public service infrastructure;

“Rebate” in relation to a rate payable on property, means a discount granted in terms of section 15 on the amount of the rate payable on the property;

“Reduction”, in relation to a rate payable on a property, means the lowering in terms of section 15 of the amount for which the property was valued and the rating at that lower amount.

“Residential property” means improved property that:-

(a) is used predominantly (60% or more) for residential purposes including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such

grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes.

(b) Is a unit registered in terms of the Sectional Title Act and used predominantly for residential purposes.

(c) Is owned by a share-block company and used solely for residential purposes.

(d) Is a residence used for residential purposes situated on property used for or related to educational purposes.

(e) Retirement schemes and life right schemes used predominantly (60% or more) for residential purposes.

And specifically exclude hostels, old age homes, guest houses and vacant land irrespective of its zoning or intended use.

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

(2) In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa.

2. Principles

(1) Rates will be levied in accordance with the Act as an amount in the rand based on the market value of all rateable property contained in the municipality’s valuation roll and supplementary valuation roll.

(2) The municipality will differentiate between various categories of property and categories of owners of property as contemplated in sections 5 and 6 of this by-law.

(3) Some categories of property and categories of owners will be granted relief from rates.

(4) The municipality will 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.

(5) There will be no phasing in of rates based on the new valuation roll, except as prescribed by legislation and in accordance with section 13 of this by-law.

(6) The municipality’s rates policy will be 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 ratepayers the municipality will provide relief measures through exemptions, reductions, rebates and cross subsidy from the equitable share allocation.

(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;

(ii) Supports local social economic development; and

(iii) Secures the economic sustainability of every category of ratepayer.

(d) Cost efficiency

Rates will be based on the value of all rateable property and will be used to fund community and subsidised services after taking into account surpluses

generated on trading (water, electricity) and economic (refuse removal, sewerage disposal) services and the amounts required to finance exemptions, rebates, reductions and phasing-in of rates as approved by the municipality from time to time.

3. Application of By-law

(1) Where this by-law contradicts national legislation, such legislation has preference over this by-law. The Municipal Manager shall bring such conflicts immediately to the attention of the municipality once he becomes aware of such conflicts and will propose changes to the municipality's by-laws to eliminate such conflicts.

(2) If there is any conflict between this by-law and the Property Rates policy of the municipality, this by-law will prevail.

(3) 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.

4. Principles applicable to financing services

(1) The municipal manager or his nominee must, subject to the guidelines provided by the National Treasury and Executive Committee of the municipality, make provision for the following classification of services:-

- (a) Trading services
 - (i) Water
 - (ii) Electricity
- (b) Economic services
 - (i) Refuse removal.
 - (ii) Sewerage disposal.
- (c) Community and subsidised services

These include all those services ordinarily being rendered by the municipality excluding those mentioned in subsections (1)(a) and (b).

(2) Trading and economic services as referred to in subsections (1)(a) and (b) must be ring fenced and financed from service charges while community and subsidised services referred to in subsection(1)(c) will be financed from surpluses on trading and economic services, regulatory fees, rates and rates related income.

5. Categories of property

(1) Different rates may be levied in respect of the categories of rateable properties as determined by the municipality's rates policy.

(2) Such rates will be determined on an annual basis during the compilation of the municipality's budget.

(3) In determining the category of a property referred to in subsection (1) the municipality shall take into consideration the dominant use of the property, regardless the formal zoning of the property.

(4) All relevant information, including circumstantial evidence, may be taken into consideration in an attempt to determine for what purpose the property is being used. A physical inspection may be done to acquire the necessary information.

(5) Properties used for multiple purposes shall be categorised and rated as provided for in section 9 of the Act and as more fully described in section 7 of this by-law.

6. Categories of owners

(1) For the purpose of granting exemptions, reductions and rebates in terms of sections 9, 10 and 11 respectively the following categories of owners of properties are determined:

(a) Those owners who qualify and who are registered as indigents in terms of the adopted indigent policy of the municipality;

(b) Those owners who do not qualify as indigents in terms of the adopted indigent policy of the municipality but whose total monthly income is less than the amount annually determined by the municipality in its budget;

(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) serious adverse social or economic conditions.

(d) Owners of residential properties with a market value below the amount as determined annually by the municipality in its budget;

(e) Owners of properties situated in "privately owned towns" as determined by the municipality's rates policy;

(f) Owners of agricultural properties as determined by the municipality's rates policy; and

(g) Child headed families where any child of the owner or child who is a blood relative of the owner of the property, is responsible for the care of siblings or parents of the household.

7. Properties used for multiple purposes

(1) Rates on properties used for multiple purposes will be levied in accordance with the "dominant use of the property".

8. Differential rating

(1) Criteria for differential 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 agricultural purposes.

(b) The promotion of social and economic development of the municipality.

(2) Differential rating among the various property categories will be done:

(a) by way of setting different cent amount in the rand for each property category; and

(b) by way of reductions and rebates as provided for in the municipality's rates policy document.

9. Exemptions and Impermissible Rates

(1) Categories of property and categories of owners as determined by the municipality's rates policy on an annual basis will be exempted from paying rates.

(2) Conditions determined by the rates policy will be applied accordingly.

- (3) Exemptions will automatically apply where no applications are required.
- (4) Rates may not be levied by the municipality on properties prescribed in Section 17(1) of the Act.
- (5) Public Benefit Organisations performing a specific public benefit activity and registered in terms of the Income Tax Act, 1962 (No 58 of 1962) for tax reduction because of those activities, may apply for exemption of property rates, on conditions as determined by the municipality's rates policy.
- (6) The municipality retains the right to refuse the exemption or cancel any exemption if the details supplied in the application form were incomplete, incorrect or false.
- (7) The extent of the exemptions implemented will annually be determined by the municipality and it must be included in the annual budget.

10. Reductions

- (1) Reductions as contemplated in section 15 of the Act will be considered on an *ad-hoc* basis in the event of the following:
 - (a) Partial or total destruction of a property.
 - (b) Disasters as defined in the Disaster Management Act, 2002 (Act No.57 of 2002).
- (2) The following conditions shall be applicable in respect of subsection (1):-
 - (a) The owner referred to in subsection (1)(a) shall apply in writing for a reduction and the onus will rest on such applicant to prove to the satisfaction of the municipality that his property has been totally or partially destroyed. He or she will also have to indicate to what extent the property can still be used and the impact on the value of the property.
 - (b) Property owners will only qualify for a rebate if affected by a disaster as referred to in the Disaster Management Act, 2002 (Act No. 57 of 2002).
 - (c) A maximum reduction determined by the municipality will be allowed in respect of both subsections (1) a) and (b)
 - (d) An ad-hoc reduction will not be given for a period in excess of 6 months, unless the municipality gives further extension on application.
 - (e) If rates were paid in advance prior to granting of a reduction the municipality will give credit to such an owner as from the date of reduction until the date of lapse of the reduction or the end of the period for which payment was made whichever occurs first.

11. Rebates

- (1) Categories of property
 - (a) The municipality may grant rebates to categories of property as determined in the municipality's rates policy.
- (2) Categories of owners
 - (a) The municipality may grant rebates to categories of owners as determined annually in the municipality's rates policy.
- (3) Applications by property owners for rebates must reach the municipality before the date determined by the property rates policy, preceding the start of the

new municipal financial year for which relief is sought.

- (4) Conditions determined by the rates policy will be applied accordingly.
- (5) The municipality retains the right to refuse rebates if the details supplied in the application form were incomplete, incorrect or false.
- (6) Properties with a market value below a prescribed valuation level of an amount determined annually by the municipality may, instead of a rate being determined on the market value, be rated a uniform fixed amount per property.
- (7) The extent of the rebate in terms of subsections (1), (2) and (6) shall annually be determined by the municipality and it shall be included in the annual budget.

12. Payment of rates

- (1) Payments will be dealt with in accordance with the provisions of the municipality's Credit Control, Debt Collection and Indigent policies.
- (2) Interest shall be paid to Council on rates which have not been paid within 30 days from the date on which such rates become due at a rate determined by the rates policy. Compounded interest will be levied.
- (3) The municipality will furnish each person liable for the payment of rates with a written account, which will specify:
 - (i) the amount due for rates payable,
 - (ii) the date on or before which the amount is payable,
 - (iii) how the amount was calculated,
 - (iv) the market value of the property, and
 - (v) rebates, exemptions, reductions or phasing-in, if applicable.
- (4) A person liable for payment of 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, he or she must make the necessary enquiries with the municipality.
- (5) In the case of joint ownership the municipality shall consistently, in order to minimise costs and unnecessary administration, recover rates from one of the joint owners only provided that it takes place with the consent of the owners concerned.

13. Phasing in of rates

- (1) The rates to be levied on newly rateable property shall be phased in as explicitly provided for in section 21 of the Act.
- (2) The phasing-in discount on the properties referred to in section 21 shall be as follows:
 - First year : 75% of the relevant rate;
 - Second year : 50% of the relevant rate; and
 - Third year : 25% of the relevant rate.

14. Frequency of valuation

- (1) The municipality shall prepare a new valuation roll every 4 (four) years.

(2) The municipality, under exceptional circumstances, may request the MEC for Local Government and Housing in the province to extend the validity of the valuation roll to 5 (five) years.

(3) Supplementary valuations will be done at least on an annual basis to ensure that the valuation roll is properly maintained.

15. Community participation

(1) Before the municipality adopts the rates policy and by-law, the Municipal Manager will follow the process of community participation envisaged in chapter 4 of the Municipal Systems Act, 2000 (Act No. 32 of 2000).

16. Register of properties

(1) The municipality will compile and maintain a register in respect of all properties situated within the jurisdiction of the municipality. The register will be divided into Part A and Part B.

(2) Part A of the register will consist of the current valuation roll of the municipality and will include all supplementary valuations done from time to time.

(3) Part B of the register will specify which properties on the valuation roll or any supplementary valuation roll are subject to:

- (a) Exemption from rates in terms of section 15 of the Act,
- (b) Rebate or reduction in terms of section 15 of the Act,
- (c) Phasing-in of rates in terms of section 21 of the Act.

(4) The register will be open for inspection by the public at the municipal pay points as determined in the municipality's rates policy, during office hours and/or on the website of the municipality.

(5) The municipality will update Part A of the register on a continuous basis by way of a supplementary valuation process.

(6) The municipality will update Part B on an annual basis as part of the implementation of the municipality's annual budget.

17. Regular review processes

The municipality's rates policy must be reviewed on an annual basis to ensure that it complies with the Municipality's strategic objectives as contained in the Integrated Development Plan and with legislation.

18. Short title

This by-law is called the rates by-law of the Molemole Local Municipality.

19. Commencement

This by-law comes into force and effect on 1 July 2017.