

# REVISED PROPERTY RATES POLICY



**Thaba Chweu  
Local Municipality**

**2023-2024**

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## 1. INTRODUCTION

The policy of the Thaba Chweu Municipality for levying rates on rateable property is set out in this document. The Council adheres to all requirements of the Municipal Property Rates Act (MPRA) and Municipal Finance Management Act (MFMA) including any regulations promulgated in terms of these Acts.

The Rates Policy only rules the rating of valued property which are valued according to the Municipal Property Rates Act, Act 6 of 2004 and its regulations as published under Government Notice 1036 of 2006 in Government Gazette 29304 dated 18 October 2006 and does not rule or guide the processes of property valuation and approval of the valuation roll.

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 fulfill 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;
- 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 municipality shall adhere to all the requirements of the Property Rates Act no. 6 of 2004 including any regulations promulgated in terms of that Act.

The municipality derives its power to levy rates from Section 229(1) of the Constitution of the Republic of South Africa.

Section 3(1) of the Local Government: Municipal Property Rates Act 2004 (Act No 6 of 2004) (MPRA) requires that the Council must adopt a rates policy for the Municipality. The Municipality's rates policy takes effect on the effective date of the first valuation roll prepared by the Municipality in terms of the Act. It must accompany the Municipality's budget for the financial year concerned when the budget is tabled in the Council in terms of section 16(2) of the Local Government: Municipal Finance Management Act 2003 (Act No 56 of 2003) (MFMA) In terms of section 5(1) of the MPRA the Council must annually review, and if necessary, amend its rates policy. Any amendments to a rates policy must accompany the Municipality's annual budget when it is tabled in the Council in terms of section 16(2) of the MFMA.

Before the Municipality adopts the rates policy, it must follow a process of community participation in accordance with Chapter 4 of the Municipal Systems Act as required by section 4(1) of the Act. It must further give public notice of the rates policy and invite the public to submit comments and representations regarding the draft policy.

Section 6 of the MPRA requires that the Municipality must adopt bylaws to give effect to its policy.

## 2. DEFINITIONS

In this policy, unless the context indicates otherwise, in addition to the definitions contained in both the MPRA and the MFMA, the following meanings are assumed:

**"agent"** in relation to the owner of a property, means a person appointed by the owner of the property;

- to receive rental or other payments in respect of the property on behalf of the owner,
- to make payments in respect of the property on behalf of the owner.

**"agricultural [purpose] property"** [in relation to the use of property,] means a property that is used for gain for the purpose of the cultivation of soils for purposes of planting and gathering of crops; forestry in the context of the planting or growing of trees in a managed and structured fashion; the rearing of livestock and game or the propagation and harvesting of fish, but excludes the use of a property for the purpose of ecotourism or for the [trading in or hunting of game] accommodation of members of the public for gain; and in respect of property on which game is reared, traded or hunted, it excludes any portion that is used for the accommodation of visitors for gain.

**"Business and commercial property"** means:

(a) Property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or

(b) Property on which the administration of the business of private or public entities take place.

with the exclusion of mining, agriculture, farming, or inter alia, any other business consisting of cultivation or soil, the gathering in of crops or the rearing of livestock or consisting of the propagation and harvesting of fish or other aquatic organisms.

**"illegal use"** means any use that is inconsistent with or in contravention of the permitted use of the property.

**"improvement"** means any building or structure on or under a property, including:

- a structure constructed solely for the purpose of rendering the property suitable for the erection of any immovable structure thereon; and
- buildings, structures and equipment or machinery referred to in Section 46(3) of the MPRA.

**"indigent"** means debtors who are poor private residential households as defined by the municipality's policy on Free Basic Services and Indigent Support.

**"industrial"** means branch of trade or manufacturing, production, assembling or processing of finished or partially finished products from raw materials or fabricated parts, on so large scale that capital and labor are significantly involved. This includes factories as defined in the Machinery and Building Work Act, Act 22 of 1941, as amended and includes any office or other accommodation on the same erf, the use of which is incidental to the use of such factory.

**"mining"** means any operation or activity for the purpose of extracting any mineral on, in or under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation of activity incidental thereto.

**"municipal"** means owned and exclusively used by the municipality.

**"municipal proclaimed land"** means residential, business, institutional and or other permitted use, include proclaimed townships where the properties are not registered in the names

of the occupant but permitted use is granted.

**"multiple use"** means a property that cannot be assigned to a single category due to the different uses of the property.

**"new private infrastructure developments"** means single properties divided (through subdivision or township establishment) into 10 or more full title units and all services, inclusive of water, sewerage, electricity and roads are installed and maintained by the developer at his own cost.

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

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

**"non-urban land"** means land which is not situated in an approved township and used for residential or agricultural purposes or not in use (informal settlements).

**"person"** means a natural person, juristic person and an organ of state

**"public benefit organization property"** means property owned by a public benefit organization and used for any specified public benefit activities listed in Part I of the Ninth Schedule to the Income Tax Act.

**"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.

**"public service infrastructure"** means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labor move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams and water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) any other publicly controlled as may be prescribed; or
- (i) right of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (h).

**"public service purposes"** in relation to the use of a property, means property owned and used by an organ of state as—

- (a) hospitals or clinics;
- (b) schools, pre-schools, early childhood development centres or further education and training colleges;

(c) national and provincial libraries and archives;

(d) police stations;

(e) correctional facilities; or

(f) courts of law, but excludes property contemplated in the definition of 'public service infrastructure'

**"Ratio"** in relation to section 19 of the Municipal Property Rates Act (Act No.6 of 2004), means the relationship between the cent 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;

**"Residential Property"** means a property included in a valuation roll in terms of section 48(2)(b) of the Local Government Municipal Property Rates Act in respect of which the primary use or permitted use is for residential purposes without derogating from section 9 of the Municipal Property Rates Act (Act 6 of 2004); and which includes the following:

(a) used primarily for residential purposes, consisting of a single unit (Dwelling); "residential property" means property of which the primary use or permitted use is for residential purposes, excluding such property used to accommodate persons other than the owner for gain.

(b) a unit registered in terms of the Sectional Titles Act (Act No. 95 of 1986, used primarily for residential purposes, and includes any unit in the same Sectional Title scheme registered in the name of the same owner which is used together with the residential unit as if it were one property, for example a garage or domestic worker's quarters. (Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes and for clearance application purposes); or

**"tax base"** means the values as reflected in the officially approved valuation roll of the municipality.

**"urban land"** means land which is situated within a proclaimed township.

**"vacant land"** means land where no immovable improvements have been erected.

### **3. INSTITUTIONAL ARRANGEMENT**

#### **3.1 POWERS, DUTIES AND FUNCTIONS OF THE COUNCIL**

The council shall:

- a) annually, together with the consideration and adoption of the budget, determine the rate in the rand at which property rates shall be payable; and
- b) annually, together with the consideration and adoption of the budget, review and consider changes to this policy

#### **3.2 POWERS, DUTIES AND FUNCTIONS OF THE MAYOR**

The Mayor shall:

- a) monitor the implementation of this policy;
- b) submit recommendations to the Council regarding the rate in the rand at which property rates shall be payable;
- c) submit recommendations to the Council regarding the review and amendment of this policy; and
- d) regularly report to the Council regarding the implementation of this policy.

#### **3.3 POWERS, DUTIES AND FUNCTIONS OF THE MUNICIPAL MANAGER**

3.3.1 The Municipal Manager shall be responsible and accountable for-

- a) implementing this policy;
- b) advising the Mayor with regard to -
  - i) the rate in the rand at which property rates shall be payable; and
  - ii) the review and amendment of this policy;
- c) regularly reporting to the Mayor on the implementation of this policy; and
- d) appointing, in terms of the Municipality's supply chain management policy, of a valuer to prepare -
  - i) a general valuation roll; or
  - ii) a supplementary valuation roll,

provided that bids shall be invited every time that the Municipality must prepare a new valuation roll.

3.3.2 The Municipal Manager may, in the performance of her/his functions and the discharge of her/his duties in terms of this policy -

- a) Delegate any of her/his functions, powers or duties; and
- b) Perform such function and discharge such duty through an official under her or his control



## 4. PRINCIPLES

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, reductions or rebates.

(c) Sustainability

Rating of property will be implemented in a way that:

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

(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 removal) services and the amounts required to finance exemptions, rebates, reductions and phasing-in of rates as approved by the municipality from time to time.

## 5. DETERMINATION OF RATES

5.1 The Municipality shall as part of each annual operating budget impose a rate in the rand on the market value of all rateable properties as recorded in the Municipality's valuation roll and supplementary valuation roll(s). Rateable property shall include any rights registered against such property, with the exception of a mortgage bond. Generally, all properties within the Thaba Chweu Municipal area of jurisdiction are rateable unless it is specifically exempted as set out in Section 15 of the MPRA and includes:

- cemeteries
- sport grounds for exercising amateur sport
- properties owned by welfare organizations

5.2.1 The Municipality shall not levy rates on;

- a) Properties of which the Municipality is the owner (except municipal properties rented for residential, business, commercial and industrial and institution purposes)
- b) Public service infrastructure owned by a municipal entity of which the Municipality is a parent municipality; and
- c) Properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racially discriminatory laws or practices

5.3 Notwithstanding the provisions of paragraph 5.1 all properties which were rated in terms of the previous valuation roll and supplementary valuation roll(s) will be rated in terms of this policy.

5.4 The Council shall, when determining the rate for each financial year, take into account:

- a) the aggregate burden of rates and service charges on property owners in the various categories of property ownership; and
- b) the extent to which this burden is or remains competitive with the comparable burden in other municipalities within the economic region.5.5 The council shall further, when determining the rate for each financial year, strive to ensure that the aggregate budgeted revenues from property rates, less revenues forgone and less any contributions to the provision for bad debts, equal at least 25% (twenty five percent) of the municipality's aggregate budgeted net revenues for the financial year concerned. By doing so, the municipality will ensure that its revenue base and the collectability of its revenues remain sound.

## 6. CATEGORIES OF PROPERTIES

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

- (a) Use of the property;
- (b) Permitted use of the property; or
- (c) A combination of (a) and (b).In determining whether a property forms part of a particular category indicated below.

### The categories are as follows:

AGR - Farm Property Used For Agricultural Purposes  
 BUS - Business & Commercial Properties  
 IND - Industrial Properties  
 MIN - Mining Properties  
 MUN - Municipal Properties  
 MUP - Properties Used For Multiple Purposes  
 PBO - Public Benefit Organization  
 PRO - Protected Area  
 PSI - Public Service Infrastructure  
 PSP - Public Service Purposes  
 RES - Residential Properties  
 SS - Sectional Scheme (Original Stand for Sectional scheme on roll)  
 TOA - Township Owner Account (will be deemed as vacant/undeveloped stand)  
 UND - Undeveloped/vacant Property

If a property does not fall under any category it will be categorized as Business

### 6.1 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:

- Multiple use purposes, as specified in Section 8 of the MPRA.

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.

## **7 EXEMPTIONS, REBATES AND REDUCTIONS ON RATES**

In imposing the rate in the rand for each annual operating budget, the council shall grant exemptions, rebates and reductions to the categories of properties and categories of owners indicated in schedule 1, but the council reserves the right to amend these exemptions, rebates and reductions if the circumstances of a particular annual budget so dictate.

The percentage rebates and reductions granted by the Municipality shall be determined each year together with the consideration and approval of the annual budget.

### **7.1 EXEMPTIONS**

The first R15 000 (fifteen thousand rand) of the market value of all residential properties and of all properties used for multiple purposes, provided one or more components of such properties are used for residential purposes, is exempt from the payment of rates in terms of Section 17(1)(h) of the Property Rates Act;

- 7.1.1 Rateable property registered in the name of a welfare organization registered in terms of the National Welfare Act, 1978(Act 100 Of 1978)
- 7.1.2 Rateable property registered in the name of an institution or organization which, in the opinion of the council performs charitable work;
- 7.1.3 Hospitals, clinics and institutions for mentally ill persons which are not operated with the intention to make a profit;
- 7.1.4 Rateable property registered in the name of a public benefit organization performing specific public benefit activities;
- 7.1.5 Cemeteries and crematoriums that are registered in the name of private persons and which are used exclusively for the burials and cremations of human remains, as the case may be;
- 7.1.6 Museums, art galleries, libraries and botanical gardens which are registered in the name of private persons and which are open to public, whether admission fees is charged or not;
- 7.1.7 National monuments including ancillary business activities at national monuments;

Exemptions described under paragraph 7.1.1 to 7.1.7 above may only be granted upon formal written applications submitted by the owners for consideration in terms of Section 15(2) of the MPRA.

7.2 Exemptions will be subject to the following conditions:-

- (a) all applications referred to in 7.1.1 to 7.1.7 must be addressed in writing to the municipality;
- (c) a SARS tax exemption certificate must be attached to all applications;
- (d) the municipal manager or his/her nominee must approve all applications;
- (e) applications must reach the municipality before the end of June preceding the start of the new municipal financial year for which relief is sought; and
- (f) the municipality retains the right to refuse exemptions if the details supplied in the application form were incomplete, incorrect or false.

## 7.2 REBATES

The following categories of owners of properties shall receive the following rebates on the rate due in respect of such properties:

### 7.2.1 Indigent Owners and Child Headed Families

Property owners who are both the permanent occupants and the sole owners of the property concerned and who are registered indigents in terms of the municipality's indigent management policy will be subsidized in terms of that policy and will not form part of a rebate in terms of the MPRA. Such subsidy is funded from the equitable share received to provide basic services to the poor.

### 7.2.2 Pensioners

**Aged persons qualify for special rebates according to monthly household income and other criteria as follows:**

- a) Be the registered owner of the property or registered as "Life right use" tenant in the Deeds office;
- b) Produce a valid identity document;
- c) Must at least 60 years of age upon application, provided that where couples are married in community of property and the property is registered in both their names, the age of the eldest will be the qualifying factor, or approved disability grantee, or approved medically boarded person;
- d) Not be in receipt of Indigent subsidy as per Council's indigent register;
- e) Must reside permanently on the property concerned which consists of one dwelling only and no part thereof is sub-let;
- f) Confirm the aforementioned details by means of a sworn affidavit and latest income tax assessment or letter from SARS.
- g) Proof of income from pension, three months bank statement and other sources must be submitted with the applications in terms of this rebate.

On approval, the following rebates will be applicable:

| <b><i>Average Monthly Earnings in Respect of Preceding 12 Months</i></b> | <b>Rebate</b>                 |
|--|-------------------------------|
| <i>R 0.00 to R 4000</i>  | 100% rebate on Property Rates |
| <i>R 4001 to R5000</i>   | 80% rebate on Property Rates  |
| <i>R 5001 to R 6000</i>  | 60% rebate on Property Rates  |
| <i>R 6001 to R7000</i>   | 40% rebate on Property Rates  |
| <i>R 7001 to R 9000</i>  | 20% rebate on Property Rates  |
| <i>Above R 9001</i>  | No rebate                     |

h) That the minimum "average monthly earnings" be adjusted annually and effective in

accordance with National Government Budget announcement in respect of state pensioners.

- i) Applications must be submitted before 31 May of each financial year in order to qualify for the rebate during the next financial year.

### 7.2.3 Disabled and Medical Unfit Applicants

- a) Applicants qualify irrespective of the age on condition that a medical certificate is produced to Council and or in receipt of a disability grant from Social Services
- b) The income must not exceed the maximum laid down by Council from time to time.
- c) The Applicant must be the registered owner of the property and occupant.
- d) The Applicant cannot be a registered owner of more than one property in the Municipal area.
- e) Applications must be submitted before 31 May of each financial year in order to qualify for the rebate during the next financial year.

A rebate as determined on the above mentioned rates shall apply to residential applicants who qualify in terms of these criteria.

### 7.2.5 Compulsory phasing in of certain rates

Rates levied on newly rateable property that was never levied rates before (excluding subdivisions and consolidations) must be phased in over a period of three or four years depending on the ownership and use (category) of such a property in terms of section 21 of the MPRA.

### 7.2.6 The Council grants the above rebates in recognition of the following factors:

- a) The inability of residential property owners to pass on the burden of rates, as opposed to the ability of the owners of business, commercial, industrial and certain other properties to recover such rates as part of the expenses associated with the goods or services which they produce.
- b) The need to accommodate indigents and less affluent pensioners.
- c) The services provided to the community by public service organizations.
- d) The need to preserve the cultural heritage of the local community.
- e) The need to encourage the expansion of public service infrastructure.
- f) The indispensable contribution which property developers (especially in regard to commercial and industrial property development) make towards local economic development, and the continuing need to encourage such development.
- g) The requirements of the Property Rates Act no. 6 of 2004.

7.2.7 Residential Properties: Residential properties with only one(1) dwelling, 50% rebate. Residential properties with more than one(1) dwelling and or flat per property which includes residential properties for gain eg: guest houses, B & B, flats, rooms, special consent use, multiple use(where residential is one of the categories), etc. 25% rebate.

The municipal manager shall ensure that the revenues forgone in respect of the foregoing rebates are appropriately disclosed in each annual operating budget component and in the annual financial statements and annual report, and that such rebates are also clearly indicated on the rates accounts submitted to each property owner.

### **7.3 RELIEF MECHANISMS**

Thaba Chweu Municipality may grant exemptions, rebates and reductions in recognition of Section 15(2) of the Municipal Property Rates Act.

## **8 PAYMENT OF RATES**

- 8.1 Payments for rates shall be made monthly on or before the date specified in each monthly rate account, which date shall be the 7th day of the month concerned or if the 7th is not a business day, the last business day before the 7th .
- 8.2 Arrears rates shall be recovered from tenants, occupiers and agents of the owner in terms of section 28 and 29 of the Act as follows:-
  - 8.2.1 If an amount, due for rates levied on a property, is not paid by the owner by the due date as shown on the account and no reaction is forthcoming from the owner after one written reminder have been issued, the amount in full or partially as follows:
    - 8.2.2 From the agent who is lawfully responsible to collect commission or rental in respect of the property concerned;
    - 8.2.3 From a tenant or occupier of the property, only after an attempt was made to collect it from an agent refer to in 8.2.2 but such attempt was unsuccessful or no such agent exists or only a part of the outstanding amount could successfully be recovered.
    - 8.2.4 The amount recoverable is limited to the amount as stipulated in the Act and it may only be recovered after written notice has been served on the party concerned (tenant, occupier or agent) of the rates due and payable, but not yet paid by owner of the property.
    - 8.2.5 The notice referred to in 8.2.4 shall give the party concerned at least 14 calendar days to pay the outstanding rates.

## **9 CORRECTION OF ERRORS AND OMISSIONS**

Where the rates levied on a particular property have been incorrectly determined, whether because:

- a) of an error or omission on the part of the municipality; or
- b) false information provided by the property owner concerned; or
- c) a contravention of the permitted use to which the property concerned may be put,

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.

## **10 FREQUENCY OF VALUATIONS**

The municipality shall prepare a new valuation roll every 4 years, with the option to extend

the validity of the valuation roll to 5 (five) years and supplementary valuation rolls once a year in terms Sec. 32(1) (b)

## 11 SHORT TITLE

This policy is the Property Rates Policy of the Thaba Chweu Local Municipality.

## 12 REVIEW PROCESSES

The Property Rates Policy must be reviewed on an annual basis to ensure that it complies with the strategic objectives of the Municipality, as stipulated in the Integrated Development Plan and other applicable legislation.

## 13 IMPLEMENTATION

This policy has been approved by the Municipality in terms of Council Resolution No: **A83/2021** dated **28 May 2021** and comes into effect on **1 July 2021**

### 14.1 CATEGORIES OF PROPERTY

| CODE | CATEGORY DESCRIPTION                           |
|------|--|
| AGR  | FARM PROPERTIES USED FOR AGRICULTURAL PURPOSES |
| BUS  | BUSINESS AND COMMERCIAL PROPERTIES             |
| IND  | INDUSTRIAL PROPERTIES                          |
| MIN  | MINING   |
| MUN  | MUNICIPAL PROPERTIES                           |
| MUP  | PROPERTIES USED FOR MULTIPLE PURPOSE           |
| PBO  | PUBLIC BENEFIT ORGANISATION                    |
| POT  | PRIVATELY OWNED TOWNS                          |
| PRO  | PROTECTED AREA                                 |
| PSI  | PUBLIC SERVICE INFRASTRUCTURE                  |
| PSP  | PUBLIC SERVICE PURPOSES                        |
| RES  | RESIDENTIAL PROPERTIES                         |
| SS   | SECTIONAL SCHEME                               |
| TOA  | TOWNSHIP OWNER ACCOUNT                         |
| UND  | UNDEVELOPED/VACANT PROPERTY                    |

## **ANNEXURE B: LEGAL REQUIREMENTS**

### ***PARAPHRASE OF KEY REQUIREMENTS OF LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT NO. 6 OF 2004(as amended)***

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 annexure to this policy.

#### **12.1 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 rate policy. Thus the section dealing with transitional arrangements has been omitted, and so have most of the provisions dealing with the valuation process.

#### **12.2 POWER TO LEVY RATES (SECTION 2)**

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 the rates policy it must adopt in terms of this Act.

#### **12.3 ADOPTION AND CONTENTS OF RATES POLICY (SECTION 3)**

The council of a municipality must adopt a policy consistent with the present 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:

- a) treat persons liable for rates equitably;
- b) 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 organizations 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 organizations 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 a 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.

## **12.4 COMMUNITY PARTICIPATION (SECTION 4)**

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
- advertise 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.

### **12.5 ANNUAL REVIEW OF RATES POLICY (SECTION 5)**

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.

### **12.6 BY-LAWS TO GIVE EFFECT TO RATES POLICY (SECTION 6)**

A municipality must adopt by-laws to give effect to the implementation of its rates policy.

### **12.7 RATES TO BE LEVIED ON ALL RATEABLE PROPERTY (SECTION 7)**

When levying rates a municipality must 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 owned by a municipal entity;
- 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.

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

### **12.8 DIFFERENTIAL RATES (SECTION 8)**

A municipality may in terms of the criteria set out in its rates policy levy different rates for different categories of rateable property, and these categories may be determined according to the:

- use of the property;
- permitted use of the property; or
- geographical area in which the property is situated.

### **12.9 PROPERTIES USED FOR MULTIPLE PURPOSES (SECTION 9)**

A property used for multiple purposes must, for rates purposes, be assigned to a category determined by Thaba Chweu 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.

### **12.10 LEVYING OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES (SECTION 10)**

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.

### **12.11 AMOUNT DUE FOR RATES (PSI) PRIVATE SERVICE INFRASTRUCTURE (SECTION 11)**

A rate levied by the 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 (fifteen thousand) of the market value of certain properties is not rateable).

### **12.12 PERIODS FOR WHICH RATES MAY BE LEVIED (SECTION 12)**

In levying rates, Thaba Chweu Municipality will 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.

### **12.13 COMMENCEMENT OF RATES (SECTION 13)**

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 the provisions of the Municipal Finance Management Act.

### **12.14 PROMULGATION OF RESOLUTIONS LEVYING RATES (SECTION 14)**

The rate levied by Thaba Chweu Municipality by a resolution passed by the council with a supporting vote of a majority of its members.

The resolution levying the rates must be promulgated by publishing the resolution in the provincial gazette.

Whenever the 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, on the website of Thaba Chweu 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.

### **12.15 EXEMPTIONS, REDUCTIONS AND REBATES (SECTION 15)**

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 of the present Act, and when granting exemptions, reductions or rebates in respect of categories of owners of properties, such categories may include -

- (a) indigent owners;
- (b) owners dependent on pensions or social grants for their livelihood;
- (c) owners temporarily without income;
- (d) owners of property situated within an area affected by
  - i. a disaster within the meaning of the Disaster Management Act. 1002 ( Act No 57 of 2002) or
  - ii. any other serious adverse social or economic conditions;
- (e) owners of residential properties with a market value lower than an amount determined by the municipality; or
- (f) owners of agricultural properties who are bona fide farmers.

### **12.16 CONSTITUTIONALLY IMPERMISSIBLE RATES (ABRIDGED) (SECTION 16)**

In terms 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 labor.

If a rate on a specific category of properties, or a rate on a specific category 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 may, 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.

## **12.17 EXEMPTION OF MUNICIPALITIES FROM PROVISIONS OF SECTION 17 (SECTION 18)**

A 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 mixed use 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.

## **12.18 IMPERMISSIBLE DIFFERENTIATION (SECTION 19)**

A municipality may not levy:

- different rates on residential properties (except where transitional arrangements apply or where some of the properties are newly rateable);
- 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.

## **12.19 COMPULSORY PHASING IN OF CERTAIN RATES (SECTION 21)**

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 has lapsed, be phased in over a period of three financial years.

The phasing in discount on a property 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, is at least 25% of the rate for that year otherwise applicable to that property.

No rate may be levied during the first year on newly rateable property owned and used by organizations 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.

## **12.20 SPECIAL RATING AREAS (ABRIDGED) (SECTION 22)**

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 I DP.

### **12.21 REGISTER OF PROPERTIES (SECTION 23)**

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
- 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.

### **12.22 PROPERTY RATES PAYABLE BY OWNERS (SECTION 24)**

A rate levied by a municipality on property must be paid by the owner of the 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.

### **12.23 PAYMENT OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES (SECTION 25)**

The rate levied by a municipality on a sectional title unit is payable by the owner of the

unit.

The municipality may not recover the rate on such 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.

#### **12.24 METHOD AND TIME OF PAYMENT (SECTION 26)**

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 installments, it must be paid on or before a date in each period determined by the municipality.

#### **12.25 ACCOUNTS TO BE FURNISHED (SECTION 27)**

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, 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.

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.

#### **12.26 RECOVERY OF RATES IN ARREARS FROM TENANTS AND OCCUPIERS (SECTION 28)**

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.

#### **12.27 RECOVERY OF RATES FROM AGENTS (SECTION 29)**

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.

## **12.28 GENERAL VALUATION AND PREPARATION OF VALUATION ROLLS (SECTION 30)**

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.

## **12.29 DATE OF VALUATION (SECTION 31)**

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.

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

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.



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

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

### **12.32 VALUATION OF PROPERTY IN SECTIONAL TITLE SCHEMES (SECTION 47)**

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.

### **12.33 GENERAL (SECTION 48)**

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.