

BA-PHALABORWA MUNICIPALITY



Draft PROPERTY RATES BY-LAW

2023/24

APPROVAL DATE BY COUNCIL: 30 March 2023

COUNCIL RESOLUTION NUMBER:6/1/1

Ba-Phalaborwa Municipality, hereby, in terms of section 6 of Local Government: Municipal Property Rates Act, 2004, has by way of resolution adopted the Municipal Property's Rates By- Law set out hereunder.

BA-PHALABORWA MUNICIPALITY

MUNICIPAL PROPERTY RATES BY-LAW(S)

PREAMBLE Section 229(1) of the Constitution requires a municipality to impose rates on Property and surcharge on fees for services provided by or on behalf of the municipality.

AND WHEREAS section 13 of Municipal System Act read with section 162 of the Constitution require Municipality to promulgate municipal by-laws by publishing them in the gazette of relevant province.

AND WHEREAS Section 6 of Local Government: Municipal Property Rates of Act, 2004 require Municipality to adopt by-laws to give effect to the implementation of its Property rates policy: the by-laws may differentiate between different categories of properties and different categories of owners of properties of liable for payment of rated;

1. Purpose of the By-law

The purpose of the Property Rates bylaw is to give effect of the property rates policy

2. DEFINITION

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

“Agricultural property” means property that is used primarily for agricultural purposes but, without derogating from section 9, excludes any portion therefore 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 game

“Business Property” means commercial or business property (also called investment or income property) and refers to buildings or land intended to generate a profit, either from capital gain or rental income. Business property includes, but is not limited to, office buildings, medical centres, hotels, malls, retail stores, hunting and game farms as well as fillings stations.

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

Municipality’ means the municipal council for the municipal area

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)

Multiple-use properties refer to property where there is a combination of different categories of property on the same registered property and where the market value of each is apportioned on the valuation roll;

Permitted Use” means the limited purposes for which the property may be used in terms of

I. A condition of title.

II. A provision of the Phalaborwa’s applicable Town Planning or land use scheme as amended from time to time.

III. Any legislation applicable to any specific property or properties

Privately developed estates “means properties divided through sub division or township establishment into developments with full title stands and / or sectional units in accordance with the Town Planning Scheme 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 by the residents of such estate"

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
- (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 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) 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; communications system serving the public;
- (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) a right registered against immovable property in connection with infrastructure mentioned in paragraphs (a) to (i);

"public 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 centers 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"

‘Residential property’ means a property included in a valuation roll in terms of Section 48 (2) (b) of the Act as residential.

“Resort” a rural place visited for holidays or recreation

Sectional Titles Act The Sectional Titles Act, 1986 (Act No. 95 of 1986)

Sectional Title Scheme A

scheme defined in Section 1 of the Sectional Titles Act;

Sectional title unit A unit defined in Section 1 of the Sectional Titles Act;

Smallholding means a property recorded in the Deeds Registry Data base as being an Erf and zoned for Agricultural usage in terms of an adopted Town Planning Scheme.

Small, very small and micro business means businesses as per the criteria set by the National Small Business Act No. 102 of 1996 schedule;

Socio-economic development’ is defined as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". Sustainable development encompasses a balance between three pillars, namely economy, environment and society. The requirements of each must be considered and integrated into all activities to achieve sustainability.

Special rating area means a geographic area within which property owners agree to pay for certain services supplementary to those supplied by the municipality. These services are financed by levying an additional rate, which is added to the rate in a rand of the property owners within the precinct;

Specified public benefit activity 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.

Squatters/Dwellers” means the workers previously employed by agricultural owners currently residing on the agricultural property and has not yet been addressed or the particular cases not yet finalized in terms of the Extension of Security of Tenure Act 62 of 1997.

Vacant Land means land, irrespective of zoning or category and in respect of which the municipality has not issued an occupancy certificate, being unimproved urban land.

Protected areas

means properties that are situated within the boundaries of Kruger National Park excluding Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004, which are not developed or used for commercial

All other terms are used within the context of the definitions contained in the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004)

3. Property Category uses

3.1 Rates on properties category will be levied on properties uses:

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

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

- (a) 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
- (b) applying the rates applicable to the categories determined by the municipality for properties used for those purposes to the different market value apportionments.

4. **OBJECTS**

The object of this by-laws is to give effect to implementation of Rates Policy as contemplated in Section 6 of Municipal Property Rates Act.

5. **ADOPTION AND IMPLEMENTATION OF RATES POLICY**

5.1. The Municipality shall adopt and implement its Rates Policy consistence with the Municipal Property Rates Act on the levying of rates on rateable property within the jurisdiction of the municipality; and

5.2. The municipality shall not be entitled to levy rates other than in terms of its Rates Policy.

6. **CONTENT OF RATE POLICY**

The Rates Policy shall, *inter alia*

- 6.1. Apply to all levied Municipality pursuant to the adoption of its Annual Budget;
- 6.2. Comply with the requirements for:

- 6.2.1. The adoption and content of rates policy specified in the section 3 of the Act;
 - 6.2.2. The process of community participation specified in section 4 of the Act; and
 - 6.2.3. The annual review of a Rates Policy specified in section 5 of the Act.
- 6.3. Provide for principles, criteria and implementation measures that are consistent with Municipal Property Rates Act for the levying of rates which council may adopt.
 - 6.4. Provide for enforcement mechanism that are consistent with the Municipal Property Rates Act and the Local Government; Municipal System Act of 2000 (Act No. 32 of 2000).

7. ENFORCEMENT OF THE RATES POLICY

The municipality's Rates Policy shall be enforced through the credit control and Debt Collection Policy and any further enforcement mechanisms stipulated in the Act and the Municipality's Rates Policy.

8. SHORT TITLE AND COMMENCEMENT

This by-law is called the Municipal Property Rates By-law, and takes effect on 1 July 2023