

# BA-PHALABORWA MUNICIPALITY



## PROPERTY RATES BY-LAW

2016/17

## INTRODUCTION

Whereas Section 6 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) requires a municipality to adopt and publish by-laws, in terms of section 12 and 13 of the Municipal Systems Act, to give effect to the implementation of its rates policy.

Now therefore the Municipal Council of Ba-Phalaborwa Municipality approves and adopts the following rates by-law.

### 1. Definitions

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 (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 (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

“**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)

“**municipality**” means the municipal council for the municipal area of Ba-Phalaborwa Municipality

“**Occupier**” ‘Office bearer’ in relation to places of worship, means the primary person who officiates at services at that place of worship;

‘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 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 the office bearer;”

“**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"

**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).**

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

- (a) Registered in the name of the 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;"

**"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, 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 general application to all properties within a property category:"

**"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.

**“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.

## **2. Rating of property**

In terms of section 2(3) of the Act the power of the municipality to levy rates on property is subject to-

- (a) Section 229 and other applicable provisions of the Constitution
- (b) The provisions of the Act
- (c) The municipality's rates policy; and
- (d) This by-law

## **3. General principles**

- (1) Rates are levied as an amount in the rand based on the market value of all rateable property contained in the municipality's valuation roll
- (2) Criteria are provided for the determination of categories of property and owners and for the purpose of levying different rates on categories of property and owners.
- (3) Different rates will be levied for different categories of rateable property.
- (4) Relief measures in respect of payment for rates will not be granted to any category of property or owners on an individual basis, other than by way of an exemption, rebate or reduction.
- (5) All ratepayers with similar properties will be treated the same.
- (6) The ability of a person to pay rates will be taken into account.
- (7) Provision will be made for the promotion of local social development and sustainable local government.
- (8) Rates will be based on the value of all rateable property and the amount required by the municipality to balance the operating budget.

## **4. Classification of services and expenditure**

(1) The municipal manager or his/her nominee subject to the guidelines provided by the National Treasury and Executive Mayor or Committee and principles contained in the rates policy will classify services, categorise expenditure and create cost centres to prevent that property rates subsidise trading and economic services

(2) Trading and economic services will be ring fenced and financed from service charges while community and subsidised services will be financed from profits on trading and economic services, regulatory fees and rates and rates related income.

## **5. Categories of properties and owners**

(1) In terms of Section 3(3) of the Act the municipality must determine the criteria for the determination of categories of property and owners for granting exemptions, reductions and rebates and criteria if it levies different rates for different categories of property.

(2) In terms of sections 8(1) and 15(1) read in conjunction with section 19 of the Act the municipality may exempt a category of owner of property from rates or grant a rebate or reduction in the rates.

(3) The criteria for categories of property and owners and the different categories of property and owners are reflected in the municipality's rates policy and adjusted annually, if required, during the budget process.

## **6. Agricultural Properties used for game hunting/ game reserve/eco-tourism/private game ranch/private nature reserve; including mining properties**

Rates on properties used for multiple purposes will be levied on properties used for-

(a) applying the rates applicable to the categories determined by the municipality for properties used for those purposes

## **7. Differential rating**

(1) Criteria for differential rating on different categories of properties in terms of section 8(1) of the Act will be according to-

(a) The use of the property;

(b) Permitted use of the property; or

(c) a combination of (a) and (b).

(2) Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category and/or by way of reductions and rebates

## 8. Criteria for exemptions, reductions and rebates

Criteria for determining categories of owners of property for the purpose of granting exemptions, rebates and reductions in terms of section 15(2) of the Act will be according to-

- (a) indigent status of the owner of a property;
- (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, 2002 (Act No. 57 of 2002); or
  - (ii). any other serious adverse social or economic conditions;
- (e) owners of residential properties with a market value below a determined threshold; or
- (e) owners of agricultural properties who are bona fide farmers

## 9. Exemptions

(1) Over and above the exemptions provided for in sections 16 and 17 of the Act specific categories of property as indicated in the table below are exempted from the payment of rates within the meaning of section 15(1)(a) of the Act and 9(2) to 9(7) of this by-law.

Description of category of property Criteria	
Residential	9(3))
Municipal properties	9(2)
Public service infrastructure	9(5) and 9(7)
Cemeteries and crematoriums	9(4) and 9(7)
Public Benefit organizations	9(6) and 9(7)

(2) Municipal properties are exempted from paying rates as it will increase the rates burden or service charges to property owners or consumers.

(3) All residential properties with a market value of less than **R 17 000** are exempted from paying rates. The **R 15 000** impermissible rates contemplated in terms of section 17(1) (h) of

the Property Rates Act is included in the **R 17 000** amount. This is an important part of the council's indigent policy and is aimed primarily at alleviating poverty

(4) Cemeteries and crematoriums registered in the names of private persons and operated not for gain.

(5) Public service infrastructure is exempted from paying rates as they provide essential services to the community

(6) Public benefit organisations as provided for in the Rates Policy 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):

(7) 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 municipal manager or his/her nominee 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; and

(e) the municipality retains the right to refuse exemptions if the details supplied in the application form were incomplete, incorrect or false.

## 10. Rebates

### (1) Categories of properties

(a) The municipality may grant rebates within the meaning of section 15(1) (b) of the Act on the rates to the owners of the following categories of properties and subject to the

Criteria and conditions contained in 10(1) (b) to 10(1) (f) of this by-law:

Description of category of property	Criteria
(a) Residential	10(1) (d)
(b) Industrial	10(1) (b)
(c) Business/commercial	10(1) (b)
(d) Agricultural	10(1) (e)
(e) State-owned properties	10(1) (c)
(f) Property below a prescribed valuation level	10(1) (f)

(b) The municipality may grant rebates to rateable enterprises that promote local, social and economic development in its area of jurisdiction, based on its Local, Social and Economic Development Policy.

i. The following criteria will apply:

- a. job creation in the municipal area;
- b. social up-liftment of the local community; and
- c. creation of infrastructure for the benefit of the community.<sup>7</sup>

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. a municipal resolution.

(c) State properties receive a rebate of 15%.

(d) Residential properties

The municipality grants a 20 % rebate, which applies to improved residential property that is:

- i. used predominantly for residential purposes, with not more than two dwelling units per property,
- ii. registered in terms of the Sectional Title Act,
- iii. owned by a share-block company,
- iv. a rateable residence on property used for or related to educational purposes

**(e) Agricultural property rebate**

- i. Agricultural properties will be granted a rebate certain information in an affidavit by **30 September** each year.
- ii. Qualifying requirements are that the owner should be taxed by SARS as a farmer and the last tax assessment must be provided as proof, or
- iii. where the owner is not taxed as farmer, proof is required that income from farming activities exceeds 40% of the household income.



iv. The following rebates will apply:

- a. 7.5% rebate, if there are no municipal roads next to the property.
  - b. 7.5% rebate, if there is no municipal sewerage to the property.
  - c. 7.5% rebate, if there is no municipal electricity to the property.
  - d. 20% rebate, if water is not supplied by the municipality
  - e. 7.5% rebate, if there is no refuse removal that is provided by the municipality.
  - f. A rebate of 5% will be granted to agricultural property that contributes substantially to job creation, and the salaries/wages of farm workers are reasonable, e.g. if they meet minimum standards set by government or if they are in line with the sector's average.
  - g. 5% rebate, if the owner is providing permanent residential property to the farm workers and such property is registered in the name of these farm workers, proof must be provided.
  - h. 5% rebate, if such residential properties are provided with potable water.
  - i. 5% rebate, if the farmer for the farm workers electrifies such residential properties.
  - j. 5% rebate, if the farmer is availing his land/buildings to be used for cemetery, education and recreational purposes of the farm workers' children and nearby community in general, etc.
- (f) Properties with a market value below a prescribed valuation level may instead of a rate determined on the market value may be a uniform fixed amount per property.

## **(2) Categories of owners**

(a) The following categories of owners of rateable properties may be granted a rebate on rates within the municipality within the meaning of section 15(1) (b) of the Act:

### **Description of Category of Owners Criteria**

(a) Retired and disabled persons 10(2) (b)

(b) Criteria for granting rebates to category of owners

i. Retired and Disabled Persons Rate Rebate

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 in receipt of a disability pension from the Department of Welfare and Population Development;
  - c. be in receipt of a total monthly income from all sources (including income of spouses of owner) not exceeding R2 700;
  - 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.
- ii. Property owners must apply on a prescribed application form for a rebate as determined by the municipality.
  - iii. Applications must be accompanied by a certified copy of the identity document or any other proof of the owners age which is acceptable to the municipality;
- b. sufficient proof of income of the owner and his/her spouse;
  - c. an affidavit from the owner;
  - d. if the owner is a disabled person proof of a disability pension payable by the state must be supplied; and
  - e. if the owner has retired at an earlier stage for medical reasons proof thereof must be submitted.
- iv. 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.
  - v. The municipality retains the right to refuse rebates if the details supplied in the application form are incomplete, incorrect or false.

## **11. Reductions**

(1) Categories of property and owners

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

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

(b) The reduction will be in relation to the certificate issued for this purpose by the municipal valuer

(c) All categories of owners can apply for a reduction in the rates payable as described above

(d) Owners of the following categories of rateable property situated within the municipality may be granted a reduction within the meaning of section 15(1) (b) of the Act on the rates payable in respect of their properties and subject to the conditions contained in 11(1)(e) of this bylaw:

<b>Description of category of property</b>	<b>Criteria</b>
(a) Residential	11(1) (e)
(b) Industrial	11(1) (e)
(c) Business	11(1) (e)
(d) Agricultural	11(1) (e)
(e) state-owned properties	11(1) (e)
(f) Municipal properties	11(1) (e)
(g) Public service infrastructure	11(1) (e)
(h) Informal settlements	11(1) (e)
(i) Properties -	
(i) Acquired through the Provision of Land Assistance Act, 1993, or the Restitution of Land	11(1) (e)
(ii) which is subject to the Communal Property Associations Act, 1996	11(1) (e)
(j) Protected areas	11(1) (e)
(k) National monuments	11(1) (e)
(l) Public benefit organizations (Part 1 of the Ninth Schedule to the Income Tax Act)	11(1) (e)
(m) Multiple purposes	11(1) (e)
(n) Private towns serviced by the developers	11(1) (e)
(o) private towns serviced and maintained by the developers	11(1) (e)

(e) Criteria for granting reductions<sup>11</sup>

i. A reduction in the municipal valuation as contemplated in section 15(1) (b) of the Act will be granted where the value of a property is affected by fire damage, demolition or floods.

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

## **12. Rates increases**

(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.

(2) Rate increases will be used to finance the increase in operating costs of community and subsidised services.

(3) Relating to community and subsidised services the following annual adjustments will be made:

(a) All salary and wage increases as agreed at the South African Local Government Bargaining Council

(b) An inflation adjustment for general expenditure, repairs and maintenance and contributions to statutory funds, and

(c) Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.

(4) Extraordinary expenditure related to community services 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.

(5) Affordability of rates to ratepayers.

(6) All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.

## **13. Notification of rates**

(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 effective. Accounts delivered after the 30 days notice will be based on the new rates.

(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 installed for that purpose.

## **14. Payment of rates**

(1) Ratepayers may choose between paying rates annually in one instalment on or before **30 September** or in twelve equal instalments on or before the seventh day of the month following on the month in which it becomes payable.

(2) If the owner of property that is subject to rates, notify the municipal manager or his/her nominee not later than **31 May** in any financial year, or such later date in such financial year as may be determined by the municipal manager or his/her nominee that he/she wishes to

pay all rates in respect of such property in instalments, such owner shall be entitled to pay all rates in the subsequent financial year and each subsequent financial year in twelve instalments until such notice is withdrawn by him/her in a similar manner.

(3) Interest on arrears rates, whether payable on or before **30 September** or in equal monthly instalments, shall be calculated in accordance with the provisions of the credit control, debt collection and indigent policy of the municipality.

(4) If a property owner who is responsible for the payment of property rates in terms of this policy, fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Credit Control, Debt Collection and indigent policy of the Municipality.

(5) Arrears rates shall be recovered from tenants, occupiers and agents of the owner, in terms of section 28 and 29 of the Act.

(6) 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 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.

(7) 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.

**15. Short title**

This by-law is the rates by-law of **Ba-Phalaborwa Municipality**.

**16. Commencement**

This by-law comes into force and effect on 1 July .....of each financial period