



MUNICIPAL PROPERTY RATES BY-LAWS

Municipal notice no. 2 of 2014

Umzumbe municipality, hereby, in terms of section 6 of the Local Government: Municipal Property Rates Act, 2004, has by way of council resolution c/9.1/05/2015 adopted the Municipality's Property Rates By-law set out hereunder.

PREAMBLE

WHEREAS section 229(1) of the Constitution requires a municipality to impose rates on property and surcharges on fees for the services provided by or on behalf of the municipality.

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

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

NOW THEREFORE BE IT ENACTED by the Council of Umzumbe Municipality, as follows:

ARRANGEMENT OF SECTIONS

Section

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1. Definition

In this by-law, unless the context indicates otherwise-

“Act” means Local Government: Municipal Property Rates Act (Act 6 of 2004);

“actual use” in relation to the categorisation of property refers to the actual use of the property as determined by the municipal valuer;

“annually” means once every financial year;

“category”-

(a) In relation to property, means a category of properties determined in terms of section 8 of the Act; and

(b) In relation to owners of properties means a category of owners determined in terms of section 15(2) of the Act;

“dominant use” In relation to a property means a property used for more than one purpose subject to section 9 (1) (b) of the Act and the following criteria applies -

(a) A dominant use approach may be applied to developed property located within the area of an approved town planning scheme granted in terms of any planning law;

(b) The dominant use is the highest percentage use of all actual uses determined by predominant use and as determined by the Municipal valuer.

(c) The dominant use category of property will then be applied to the levying of rates.

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

“financial year” means the period starting from 1 July in a year to 30 June the next year;

“municipal council” or “council” means a municipal council referred to in section 18 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“municipality” –

- (a) As a corporate entity, means a municipality described in section 2 of the Municipal Systems Act; and
- (b) As a geographical area, means a municipal area demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

“municipal valuer or valuer of a municipality” means a person designated as a municipal valuer in terms of section 339(1) of the Municipal Property Rates Act.

“municipal valuation” means a valuation of a rateable property within the municipal area by the municipal valuer in terms of the Act.

“Owner” –

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;
 - (bA) in relation to a time sharing interest contemplated in the Property Time-sharing Control Act, 1993 (Act No. 75 of 1983), means the management association contemplated in the regulations made in terms of section 12 of the Property Time-sharing Control Act, 1983, and published in Government Notice R327 of 24 February 1984;
 - (bB) in relation to a share in a block company, the share block company as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980);
 - (bC) in relation to buildings, other immovable structures and infrastructure referred to in section 17(1)(f), means the holder of the mining right or the mining permit;
- (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”
 - (i) provided that a person mentioned below may for the purposes of this policy be regarded by a municipality as the owner of a property in the following cases:
 - (ii) A trustee, in the case of a property in a trust excluding state trust land;
 - (iii) An executor or administrator, in the case of a property in a deceased estate;
 - (iv) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
 - (v) A judicial manager, in the case of a property in the estate of a person under judicial management;
 - (vi) A curator, in the case of a property in the estate of a person under curatorship;
 - (vii) 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;
 - (viii) A lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right; or
 - (viii) 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.

“permitted use” in relation to property, means the limited purposes for which the property may be used in terms of-

Any restriction imposed by-

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

“Public benefit organization” means a property where the dominant activity is 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.

“publicly controlled” means owned or otherwise under the control of an organ of state, including-

- (a) A public entity listed in the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (b) A municipality; or
- (c) A municipal entity as defined in the Local Government; Municipal Systems Act, 2000 (Act No. 32 of 2000);

“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 the 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 navigation 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 in terms of section 83 of the Act; or
- (j) Rights of way, easements or servitudes in connection with infrastructure mention in paragraphs (a) to (i).

“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 to a person in terms of legislation; or
- (d) Public service infrastructure;

“rate” means a municipal rate on property envisaged in section 229 (1) (a) of the Constitution, 1996.

“rate policy” means the policy adopted by the municipal council in terms of the Act;

“Rateable property” means a municipal rate or property on which a municipality may in terms of section 2 of the Municipality Property Rates Act levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Municipal Property Rates Act

“Rebate”, in relation to a rate payable on a property, means a discount granted in terms of section 15 of the Municipal Property Rates Act of the amount for which the property was valued and the rating of the property at that lower amount.

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

2. Rates policy

- (1) The municipal council must, by resolution, adopt a policy on the levying of rates on rateable property in the municipality.
- (2) The rates policy adopted by the municipal council in terms of subsection (1) must comply with the provisions of the Act.
- (3) The municipal council must annually review and, if necessary, amend its rates policy.

3. Rating of property

- (1) In terms of section 2 (3) of the Act the municipality must levy rates on all rateable property subject to:
 - (a) Section 229 of the Constitution;
 - (b) The provisions of the Act;
 - (c) The rates policy adopted by the Council;
 - (d) Any other applicable legislation.

4. Principles

The rates policy adopted by the municipal council must comply with the following principles-

- (a) All ratepayers within a specific category, as determined by the municipal council from time-to-time, must be treated equitably
- (b) A fair and transparent system of exemptions, rebates and reductions must be adopted and implemented by the municipality;
- (c) Relief measures in respect of the payment of rates may not be granted on an individual basis, other than by way of exemption, rebate or reduction;

- (d) Exemptions, rebates and reductions must be used to alleviate the rates burden on-
 - (i) The poor;
 - (ii) Public benefit organizations; and
 - (iii) Public service infrastructure; and
- (e) Provision must be made for the promotion of local, social and economic development.

5. Categories of property

- (1) For the purpose of levying different rates on different categories of property, the municipal council may-
 - (a) Determine different categories of property; and
 - (b) Provide criteria for determining different categories of property.
- (2) The rates policy adopted by the municipal council in terms of section 2(1) must specify-
 - (a) Different categories of property determined by the municipal council in terms of subsection (1) (a); and
 - (b) The criteria for determining different categories of property provided by the municipal council in terms of subsection (1)(b).
- (3) The criteria for determining different categories of property provided by the municipal council in terms of subsection (1)(b) may include, but are not limited, to-
 - (a) The actual use of the property;
 - (b) The permitted use of the property;
 - (c) The dominant use of the property;
 - (d) The size of the property; or
 - (e) The geographical area in which the property is located.

6. Categories of owner

- (1) For the purpose of levying rates on different categories of property or for the purpose of granting exemptions, rebates or reductions, the municipal council may-
 - (a) Determine different categories of owners of property; and
 - (b) Provide criteria for determining different categories of property.
- (2) The rates policy adopted by the municipal council in terms of section 2(1) must specify-
 - (a) Different categories of owners of the property determined by the municipal council in terms of subsection (1)(a); and
 - (b) The criteria for determining different categories of owners of property provided by the municipal council in terms of subsection (1) (b).
- (3) The criteria for determining different categories of owners of property provided by the municipal council in terms of subsection (1)(b) may include, but are not limited, to-
 - (a) The age of the owner of the property;
 - (b) The income of the owner of the property;
 - (c) The source of income of the owner of the property;
 - (d) The occupation of the owner of the property;
 - (e) The market value of the property;
 - (f) The use of the property; and
 - (g) Disasters or any other serious adverse social or economic condition.

7. Differential rating

- (1) Subject to and in conformity with the Act, the municipality may levy different rates on different categories of rateable property.
- (2) If the municipal council chooses to levy different rates on different categories of property, it must exercise this power in accordance with the criteria the municipal council is required to determine in terms of section 3(3)(b)(i) of the Act.
- (3) The criteria determined by the municipal council in terms of section 3(3) (b) (i) of the Act must be specified in the rates policy adopted by the municipal council in terms of section 2(1).
- (4) If the municipal council chooses to levy different rates categories of property, it must determine the method in terms of which different rates will be levied against different categories of property.
- (5) The method determined by the municipality in terms of subsection (4) must be based on setting a different cent amount in the Rand for each category of property;
- (6) The method determined by the municipality in terms of subsection (5) must be specified in the rates policy adopted by the municipal council in terms of section 2(1).

8. Rates relief

- (1) Subject to and in conformity with the Act and the rates policy, municipality may grant an exemption, rebate or reduction to-
 - (a) The owners of any specific category of property; or
 - (b) Any specific category of owners of property;From the payment of rates.
- (2) Applications for exemptions, rebates and reductions must be made in accordance with the procedures determined by the municipality.
- (3) The procedures applied by the municipality in terms of subsection (1) must be specified in the rates policy adopted by the municipal council in terms of section 2(1).
- (4) The municipality retains the right to refuse an application for an exemption, rebate or reduction if the application is not in accordance with the criteria and procedures contained in the rates policy.
- (5) The municipality will not grant relief to the owners of property on an ad hoc or individuals basis.

9. Deferment of rates

The municipality may, on application, defer the payment of rates in terms of section 26(3) of the Act, the rates policy, credit control policy and by-laws.

10. Rates increases

- (1) Subject to and in conformity with the Act, the municipal council may increase the rates levied on rateable property in the municipality.

- (2) If the municipal council chooses to increase the rates it levies on properties in the municipality, it must exercise this power in accordance with the criteria the municipal council is required to determine in terms of section 3(3)(b)(iv) of the Act.
- (3) The criteria determined by the municipal council in terms of section 3(3) (b) (iv) of the Act must be specified in the rates policy adopted by the municipal council in terms of section 2(1).

11. Impermissible rates

The municipality may not levy rates on properties as prescribed in sections 16 and 17 of the Act.

12. Compulsory phasing-in of certain rates

A rate levied on a newly rateable property must be phased-in over a period as prescribed in section 21 of the Act.

13. Short title

This by-law is called the Umzumbe Municipality Property Rates By-Law.

14. Commencement

This by-law comes into effect on 01 July 2021.